

25 CENTS  
A COPY

FOUNDED 1866

# LIBERTY

WASHINGTON  
D. C.

A MAGAZINE OF RELIGIOUS FREEDOM



COPYRIGHT BY DR. ERNEST N. KYDER

J. L. G. FERRIS, ARTIST

## THANKSGIVING, PLYMOUTH STYLE, IN 1621

The first winter and summer in Plymouth had brought a hard and tragic experience to those intrepid Pilgrims who but a few short months before had landed from the good ship *Mayflower*. Disease and privation had taken

a heavy toll from among their small number. Autumn came, and a modest harvest filled their hearts with thanksgiving as they invited some friendly Indians to a feast and divided with them a portion of their small store.

## **RELIGIOUS LIBERTY ASSOCIATION**

We believe in God, in the Bible as the word of God, and in the separation of church and state as taught by Jesus Christ; namely, that the church and the state have been placed side by side, each to work in its respective sphere. (Matt. 22:21; John 18:36.)

We believe that the Ten Commandments are the law of God, and that they comprehend man's whole duty to God and man.

We believe that the religion of Jesus Christ is comprehended in the principle of love to God and love to our fellowman, and thus this religion needs no human power to support or enforce it. Love cannot be forced.

We believe in civil government as divinely ordained to protect men in the enjoyment of their natural rights, and to rule in civil things, and that in this realm it is entitled to the respectful and willing obedience of all.

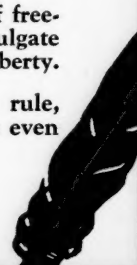
We believe it is the right and should be the privilege of every individual to worship or not to worship, or to change or not to change his religion, according to the dictates of his own conscience, but that in the exercise of this right he should respect the equal rights of others.

We believe that all legislation which unites church and state is subversive of human rights, potentially persecuting in character, and opposed to the best interests of the church and of the state; and therefore, that it is not within the province of human government to enact such legislation.

We believe it to be our duty to use every lawful and honorable means to prevent the enactment of legislation which tends to unite church and state, and to oppose every movement toward such union, that all may enjoy the inestimable blessings of religious liberty.

We believe in the individual's natural and inalienable right of freedom of conscience, and the right to profess, to practice, and to promulgate his religious beliefs; holding that these are the essence of religious liberty.

We believe that these liberties are embraced in the golden rule, which says, "Whatsoever ye would that men should do to you, do ye even so to them."



**RELIGIOUS LIBERTY ASSOCIATION**

6840 Eastern Avenue, Takoma Park, Washington 12, D.C.

# In This Issue

Vol. 48, No. 4  
Fourth  
Quarter  
1953

**HEBER H. VOTAW—Editor**

*Associate Editors*—A. W. Johnson, C. S. Longacre,

Frank H. Yost, A. H. Rulkoetter

*Office Editor*—Merwin R. Thurber

*Circulation Manager*—R. J. Christian

## FRONT COVER

Thanksgiving, Plymouth Style, in 1621. J. L. G. Ferris, Artist  
Copyright by Dr. Ernest N. Ryder

## ARTICLES

The Kentucky Plan .....	5
The Watchers on the Wall .....	10
Church and State in Philippine Public Education .....	13
Unanimous Decision of the Supreme Court of Missouri .....	16
Philippine Republic Approves Religious Legislation .....	22
The American Side of the Public School Question .....	24
The Spirit of Gratitude at Thanksgiving Time .....	25
Michigan School District Denied State School Aid Because of Sectarian Program .....	26
Air Force Corporal Denied Citizenship—He Appeals Case .....	27
News Note From Canada .....	28

## EDITORIALS

Nuns Not to Teach in Public Elementary School—Legacy for Masses Ruled Taxable .....	28
--	----

## NEWS and COMMENT

Declines Legal Action to Bar Nuns From School—Soviets Bar Amnesty to Religious Prisoners—Supreme Court to Weigh Definition of "Minister"—Religious Garb Banned in Schools— Catholic Bishop Urges Better Sunday Observance—Bus Trans- portation Decision Reversed—E.U.B. Church Adopts Statement on Church-State Relationship—Nuns Not to Be Hired—Protestant Indians Bring Religious Freedom Suit—Tax Exemption Claim Denied .....	29
Lincoln's Speech at Gettysburg .....	35

## Our Cover Picture

The Pilgrim story in early American history brings to our attention a band of devout men and women of strong faith and fortitude. England was their home, but with the established state church and its rigid laws and rituals, came friction. They could not conscientiously subscribe to these regulations and manner of worship, and so founded the Separatist church about 1602. Because of severe persecution they resolved to go to Holland, where they heard there was freedom of religion. Here for a number of years they enjoyed the liberty of conscience they so earnestly sought, and enjoyed peace with their Dutch friends. However, desiring to maintain their language and traditions as English men and women, they began to think of emigrating to the New World. After much thought and planning these brave pioneers set out in the sturdy ship "Mayflower." After a voyage of over two months, these 102 souls made their historic landing in December of 1620. Our cover shows them a year later, at the end of the harvest season, entertaining some friendly Indians. Those early days were often filled with struggle and privation, but the dark hours were more than compensated for by freedom to worship as their souls directed.

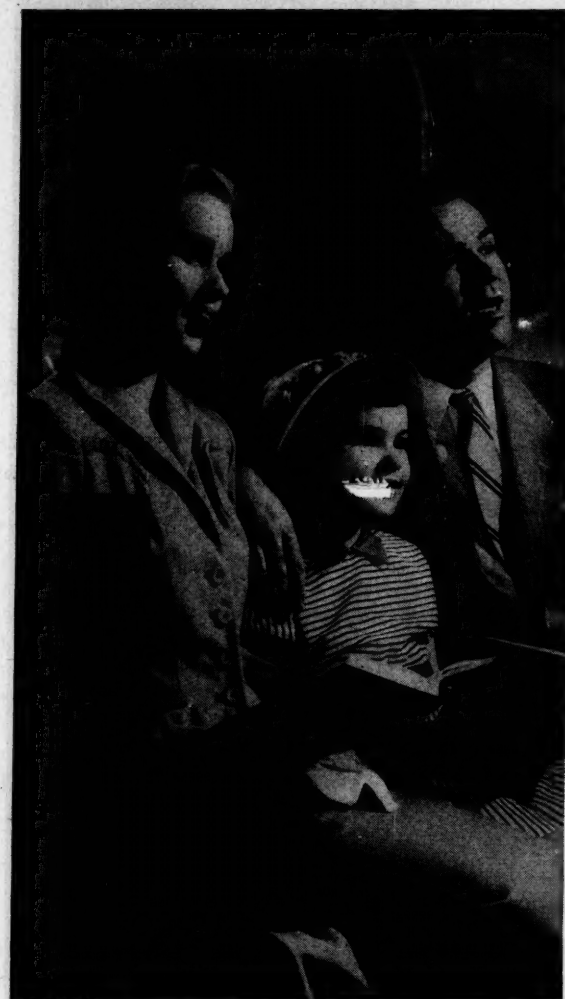


## BACK COVER

National Monument at Gettysburg

**COPYRIGHT.**—The entire contents of this issue is copyrighted 1953 by the Review and Herald Publishing Association.

**LIBERTY**, published quarterly by the Review and Herald Publishing Association, Takoma Park, Washington 12, D.C. Entered as second-class matter, May 1, 1906, at the post office at Washington, D.C., under the Act of Congress of March 3, 1879. **LIBERTY** is the successor of the *American Sentinel*, whose first number was published in 1836, at Oakland, California. Its name was changed in 1906 to **LIBERTY**. Subscription rates—one year, \$1; five or more copies mailed by publishers to five addresses or to one address, postpaid, each 20 cents. No subscription accepted for less than one year. Remit by post office money order (payable at Washington, D.C., Post Office), express order or draft on New York. Cash should be sent in registered letter. When a change of address is desired, both old and new addresses must be given. No papers are sent except on paid subscriptions.



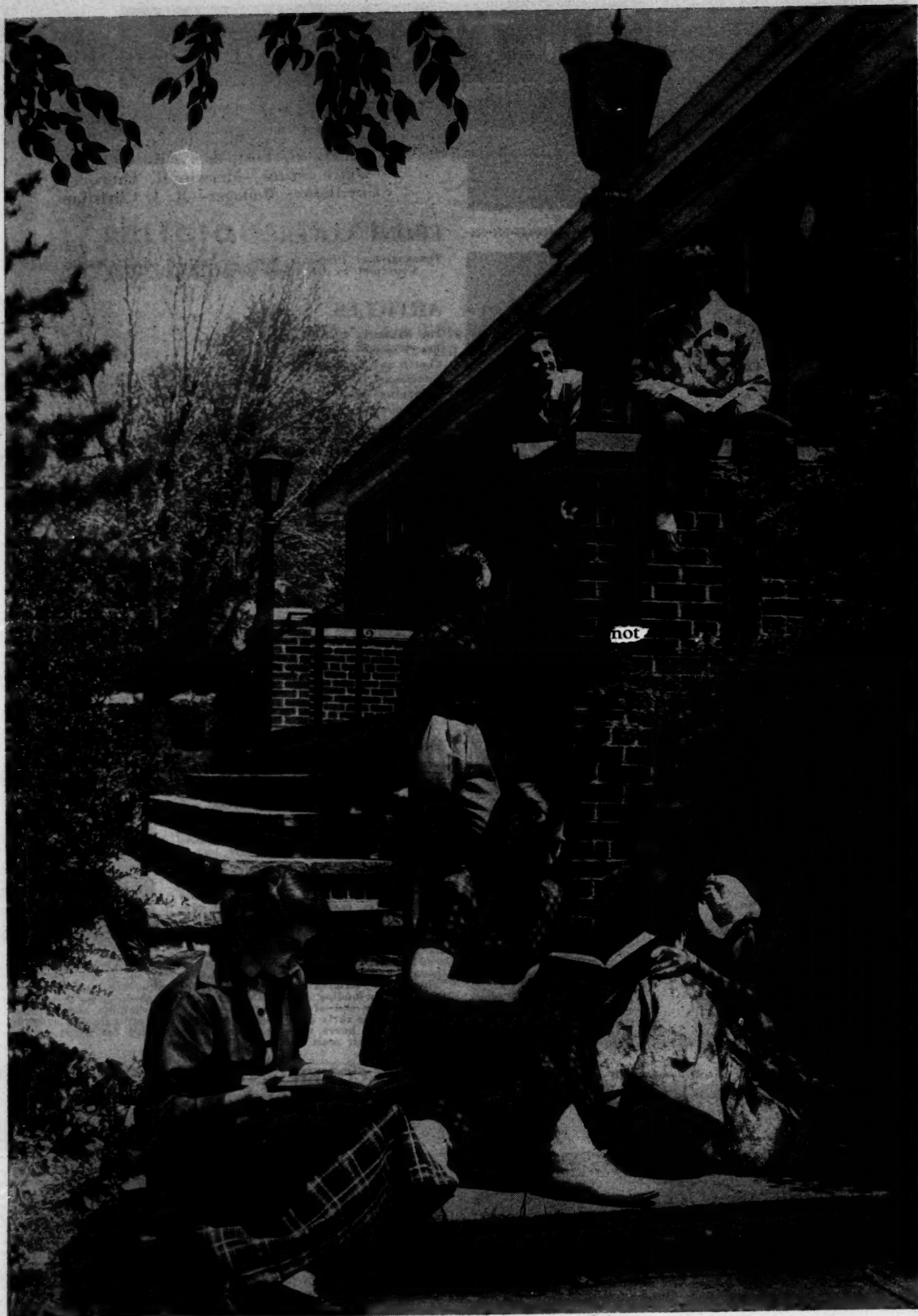
A. DEYANET

We live in a land fortunate perhaps above all others in material blessings. Many express their appreciation for these gifts at harvesttime with hymns of praise and prayers of thanksgiving.

FOURTH QUARTER

3





H. A. ROBERTS



# THE KENTUCKY PLAN

A Project Initiated by a Group of Educators in the State of Kentucky to Guide Students in Discovering and Putting Into Practice Moral and Spiritual Values as They Associate Together in Study Groups and School Cafeterias; as They Meet in Sports and in the Various Activities and Social Life of the School Program. Emphasis Is Placed Upon Cooperation, Honesty, Tolerance, Helpfulness, and Understanding. No Religious Ideas Are Inculcated; These Are Left to the Parents in the Home. No Religious Teachings Are Propagated, for These Are Properly in the Sphere of the Churches and of Religious Leaders

By FRANK H. YOST, Ph.D.

**S**ECULARIZED EDUCATION is a matter of concern to all, a problem to not a few, "godless education" to some.

It was not so a century ago. The founders of the great American public school system took it for granted that the State must teach the reading, 'riting, and 'rithmetic. The fourth R, religion, was considered the business of the church. Denominational competition was keen, several church bodies were maintaining their own parochial schools, and the question of whether education in the United States should be under church control demanded settlement. The secular public school system was the answer.

But now the exclusion of the teaching of religion from the public school curriculums seems to many a mistake. The parents of an estimated 50 per cent of the public school children do not avail themselves of church privileges. For those who do, the church finds that it can ask for only a small percentage of the time of its members, for worship and religious instruction. The increase of juvenile delinquency, the revelations concerning public crime, with the liaison between criminals and some areas of government in the United States, and the religious illiteracy of youth are causing a demand that religious instruction

be given more effectively to the youth, and the public school is being asked to do it.

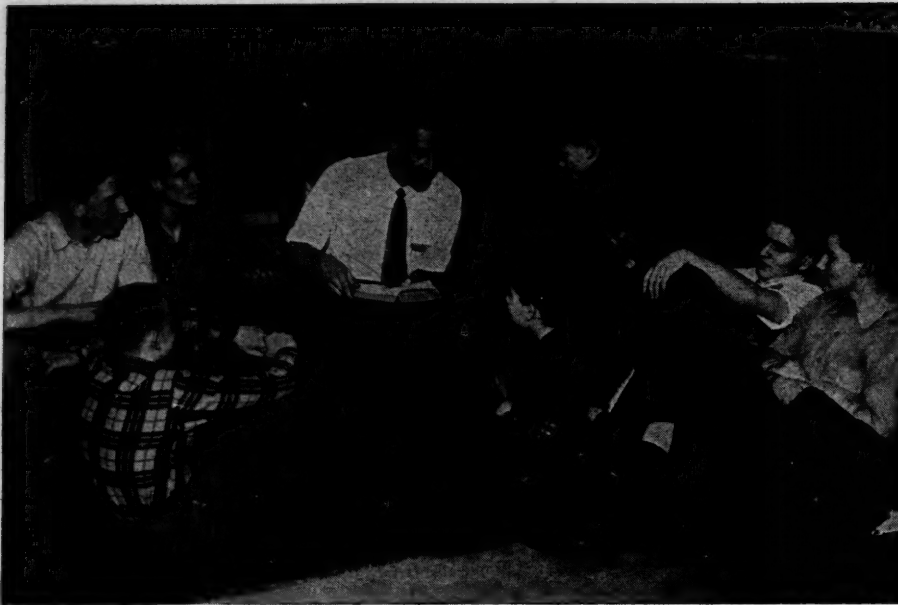
But in the United States there is still a wide diversity of religions. There are more than two hundred Christian sects. There is strong sectarian feeling. On the other hand, roughly half the population of the country is unchurched, and there are millions of religious people who are members of other than Christian groups. The early American principle of the separation of church and state, held from the beginning, requires that religion and the public school shall not be joined.

How can the public schools, attendance of which is required of all children up to the ages of fourteen or sixteen, according to State law, offer religious instruction to children in a population so diversified in respect to religion? The United States is a democracy. It is the great underlying principle of democracy that every citizen, no matter how his opinions may differ from those of another, shall feel at home in every phase of his public life. Can a Jewish child, compelled by law to attend the public school, feel at home if some part of the Christian philosophy of religion is being taught in the school he attends? Can a child from a Roman Catholic home feel at ease if a Protestant public school teacher is giving religious instruction in a school the Catholic child is compelled to attend? Will a child from the home of one Protestant group wish to listen to religious instruction given by a teacher belonging to another Protestant group, using lessons gotten out by a committee of citizens in which perhaps his own

---

← The future citizens of America are eager to learn the mechanics of modern life. Basic to this information, however, should be the knowledge of true American principles and how this country operates under a matchless Constitution and a Bill of Rights that protect and secure the privileges of all.

---



D. W. COBSON, FROM A. DEVANEY

The teaching of the principles of morality and good citizenship, the motives that should underlie neighborliness and good fellowship one with another, the feeling of self-respect that comes to one who is honest in all of his dealings with others—These are rules of conduct that certainly come within the purview of tax-supported schools.

of Kentucky educators, who felt that although the State government permitted released-time programs of religion instruction in the public schools, there is a more suitable way of inculcating the principles which religion offers.

church is not represented? What of the child with backgrounds indifferent to religion, agnostic or atheistic?

Charges are made that already public schools here and there have strayed over into the area of religion, and that organized religion again and again has intruded upon the public school system. Schools have permitted the use of their buildings and facilities for the teaching of religious doctrines. Some have directly aided religious groups in the propagation of their beliefs. Schools working under the compulsory system have been found advancing the cause of religious agencies. Public schools have used the services of teachers in the employ of religious groups. School funds have been expended for sectarian instruction. Public school teachers have distributed enrollment blanks and have kept records of attendance for religion education classes, even when these classes have been conducted off school property.

Leaders in the public school system insist that their curriculums are secular by law, on principles in line with democratic thought, but insist at the same time, with equal emphasis, that these curriculums are not godless. The range of the public school curriculums is amazingly wide and inclusive, but an honest effort has been made to avoid teaching religion. However, since the school is a little community of its own, it is now strongly felt that in order for the pupil to have full expression for his communal life, he should have some sense of the value that religion is intended to give to the individual, and that its omission leaves an undesirable vacuum.

One of the latest movements for filling the vacuum is the Kentucky Plan of emphasizing moral and spiritual values. The plan was proposed by a group

The values that were set forth for emphasis in the Kentucky Plan avoid any inculcating of religious doctrine, but point up ten values of moral and spiritual importance in a democratic society. These ten values are as follows:

"(1) *The supreme importance of the individual personality.* Public schools promote this basic moral value by trying to give every child a chance to grow to his full physical, intellectual, moral, and spiritual stature.

"(2) *Moral responsibility.* Every individual should feel responsible for the consequences of his own conduct. Good schools help children develop such a sense of responsibility.

"(3) *Institutions as the servants of men.* Programs of civic education train young citizens to exercise wisely their essential sovereignty.

"(4) *Common consent.* Living together in harmony requires each member of a group to accept the informed judgment of the majority as the guide to group action. School experiences include many opportunities for such voluntary cooperation.

"(5) *Devotion to truth.* The public schools offer young people experience in seeking truth, examining new ideas, and appealing to reason on controverted questions.

"(6) *Respect for excellence.* Exceptional abilities merit respect rather than envy or ridicule. Such abilities are fostered by good schools.

"(7) *Moral equality.* All persons similarly situated should be judged by the same moral standards. Good schools repudiate both special privilege and servility.

"(8) *Brotherhood.* Concern for the other fellow should inspire corrective action as well as sympathy. The school helps children to outgrow self-centered infancy and to achieve a broad humanitarianism in maturity.

"(9) *Pursuit of happiness.* Children and youth learn in school that the deepest personal happiness springs from good relations with others and often requires the deferment of transitory pleasures.

"(10) *Spiritual enrichment.* Individuals should cherish those aspects of human experience which transcend the materialistic aspects of life. A complete education provides experiences which enrich the life of the spirit."—WILLIAM G. CARR, Associate Secretary, National Education Association, Washington, D.C., in *Religious Education*, July-August, 1951, p. 196.

To inaugurate the Kentucky Plan, workshops were organized during the summer of 1949, and six schools were picked out as laboratories for putting the plan into practice. Two of these schools were high schools. Workshops have been held for representative teachers of the schools subscribing to the plan during successive summers. In the workshops suggestions were made to the teachers in attendance as to how they might guide the students in discovering and putting into exercise moral and spiritual values as they associated together in the study rooms and school cafeterias; in the extracurricular activities, the sports and the social life contingent upon the school program. These interests and activities gave opportunity for emphasizing the value of cooperation, honesty, tolerance and understanding, helpfulness, particularly for those pupils who were suffering from handicaps or living under adverse circumstances; maintaining orderliness within the school group; making the best use of time; and solving the problems presented by opportunities for using narcotics, alcohol, tobacco, the question of dating and ethics in relation to it, and questions of that kind.

After the first year a comparison was made between one of the pilot high schools and a control high school of similar environment and student constituency. Although no miracles had been performed, interviews and opinionaires showed that the students in the pilot school had made definite gains in appreciating and applying the moral and spiritual values

by teachers of religious background, there was a relationship between religion as a general cultural item and the principles emphasized.

Among the gains claimed were better order in the school cafeterias, less cheating in school testing programs, students' assistance to young people who were finding it hard to adapt themselves. Counseling was more directional, and definitely student centered. There were some illustrations of gains in racial and religious tolerance.

The Kentucky Plan is being watched with great interest by educators all over the country, is spreading in the State of its origin, and is being put into exercise in other areas. Courses in the techniques of the plan are being prepared. To what extent it will supply the need that some have thought would be met by the teaching of religion in the public schools remains to be seen. The advocates of the plan are optimistic concerning it, although they realize that much has yet to be done to make the plan truly effective.

It is too soon to evaluate it fairly. It has achieved something. That it can continue to do so remains to be seen. That it will satisfy the demands of those who insist that religion lies at the basis of morality, and that therefore to achieve anything in the character of the school pupils, religion must be taught in the public schools, is doubtful.

If the public school is to cooperate in correcting the morality of the present age, and religion is the basis of the ethics that will make this possible, then there must be presented some unified concept of religion from which will spring the ethics the public school is to teach. The Kentucky Plan purposely avoids this

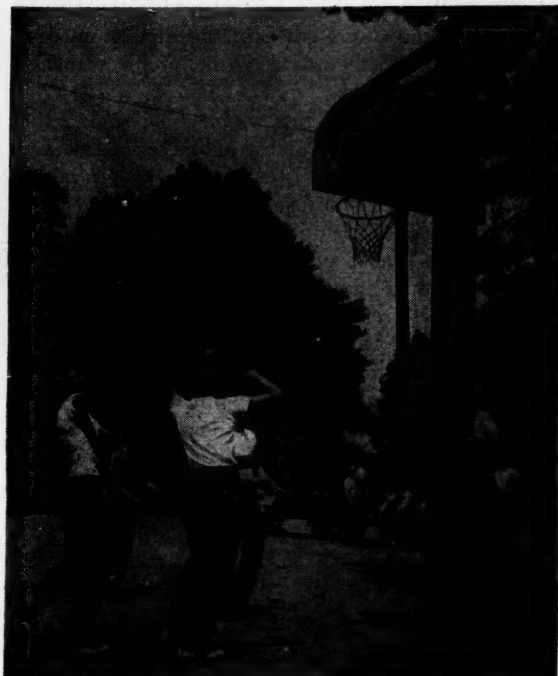


BWING GALLOWAY

Under the Kentucky Plan students are encouraged to learn the value of self-discipline, good sportsmanship, and honesty in the playing of games and in all of the various programs of school life. Students usually respond favorably when one exhibits a sympathetic understanding of their problems.

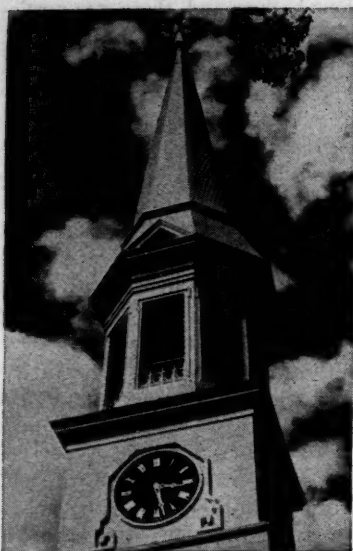
emphasized. It must be noted that no religious ideas were inculcated, nor religious teachings propagated. The principles set forth were not based upon religion. The standards pointed out were those of good society. However, there has been no attempt to deny that since the schools used as pilot schools were attended by students with a religious background, and taught

#### FOURTH QUARTER



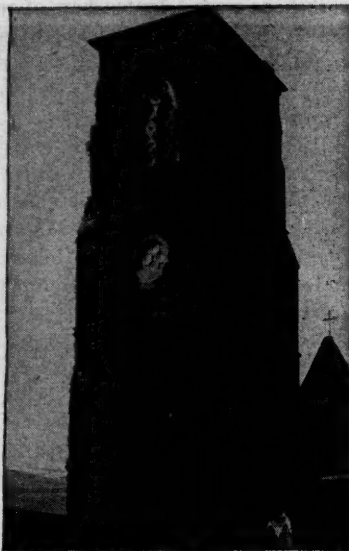
EVA LUOMA





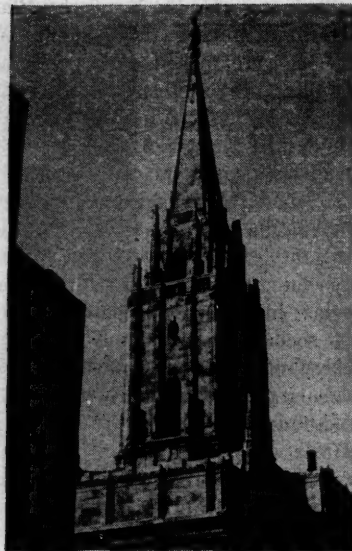
W. E. FOGG

Typical of just one of the many different Protestant churches in the United States.



REVIEW PICTURES

Many of the Roman Catholic churches in America conduct their own church schools.



W. E. FOGG

An edifice of the Mormon persuasion in America, this one in the nation's capital.

In the United States there are more than two hundred denominations that teach the Christian religion in one form or another. Many of these differ from one another only in small matters of doctrine, but other larger Christian denominations are as far apart as the poles in their beliefs and creeds. Can these denominations agree on one single doctrine that should be taught in the public schools?

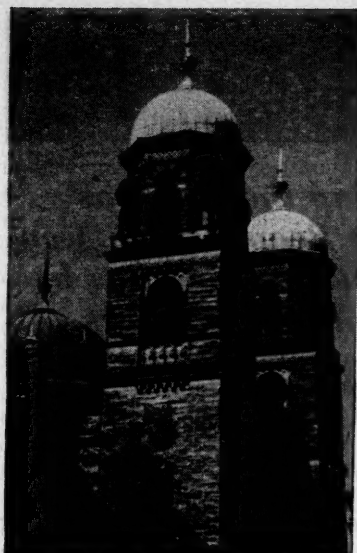
phase of the problem, and plunges *in res media*, picking up the ethical concepts where it finds them, in the community, in the minds of the teachers, in generally accepted norms of conduct, and seeks to proceed from there. The other alternative, of arriving at a unified concept of religion, and building upon this a framework of ethics, to be presented in the public schools, is the very thing against which the United States Supreme Court ruled in the *McCormum* case, and which constitutes exactly the problem that is before us.

Some would answer this problem by saying that in all the subjects taught in the public schools religion is innate: in history, in literature, in art, in music, in the very ethics that are necessary and which emerge in all human relationships; and that the presentation of the public school subjects by intelligent teachers will, with proper emphasis, bring out what is needed concerning both religion and ethics. Others go further and say that it is perfectly proper for the public school, in the normal course of the subjects presented, or even through additional explicit courses, to teach *about* religion. This, they contend, would fill the vacuum. Religion is a part of man's experience, and therefore should be a matter of discussion in any process of education. Therefore, it is the province of the public school to teach *about* religion.

But it must be recognized that if religion or ethics, or both, be taught in the public schools, much depends not only upon how the material presented is synthesized but even more upon the teachers who present the material. It is scarcely conceivable that a teacher

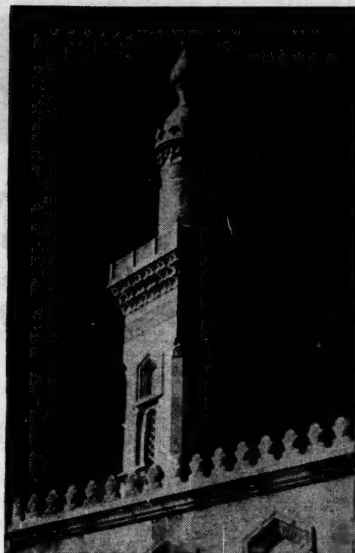
will present religion in the public schools without some coloring from his own thinking and his own religious experience, if any. Can a teacher with no religious concepts better present in a public school the philosophy and ethics of religion, or should it be done by one who has religious backgrounds? There is the classical example of the institution of learning which hired, to occupy the chair of the philosophy of religion, an atheist, because the board of the institution believed that such a man could best present objectively the various views of religion as a philosophy.

Is the Kentucky Plan an effective and permanent answer to the total problem? Other solutions are not proving satisfactory. Religious instruction by public school teachers in public school buildings on public school time has been declared contrary to the First Amendment of the Federal Constitution by the Supreme Court of the United States in the *McCormum* case. The plan of released time, which sends the pupils away to places not connected with the school where they may receive the religious instruction that the parents of the children desire, while it avoids the prohibition of the Supreme Court ruling, breaks into school time. It has the further social disadvantage of emphasizing religious differences among the pupils of the school. The plan of dismissed time, which provides for the closing of the public school session early on one or more days a week, with the pupils repairing to places of their choice for religious instruction, also emphasizes religious differences among the pupils, and has the religious instruction coming at the tag end of the day, when the pupil might be the least ready



W. E. FOGG

There are hundreds of synagogues for the Jewish congregations in America.



W. E. FOGG

The Washington mosque where adherents of the Moslem religion come to worship.



EVA LUOMA

Tens of millions belong to no church and seldom attend a religious meeting place.

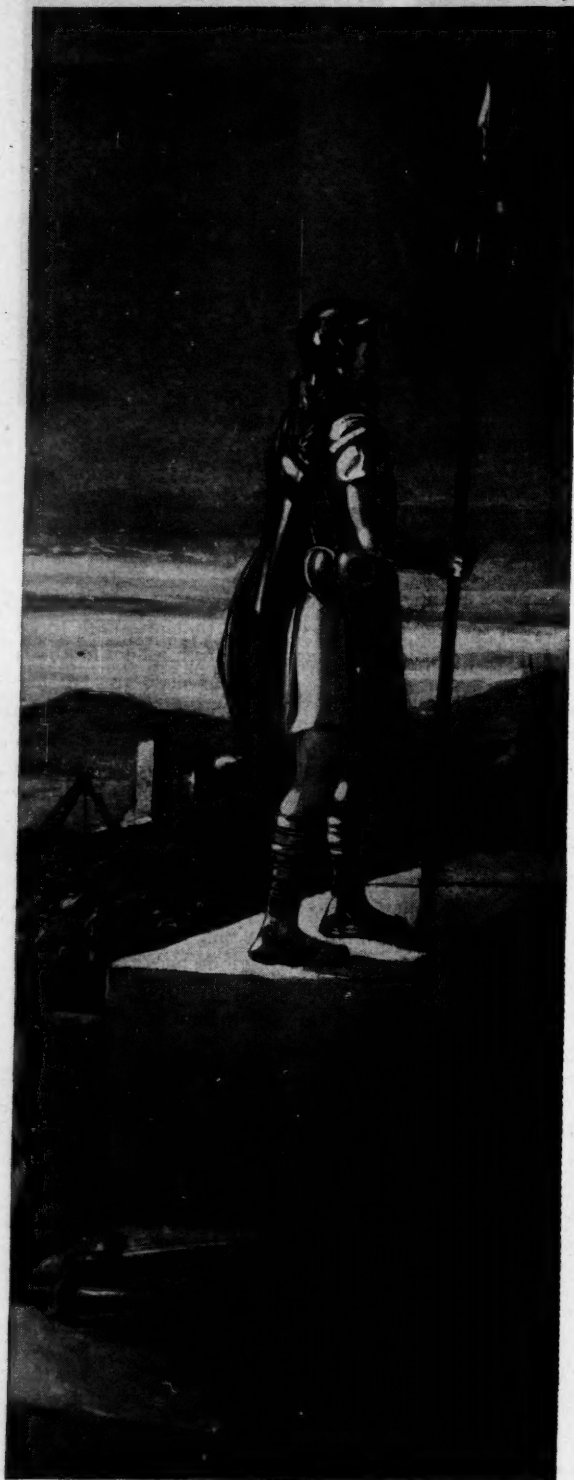
There are millions in this country who are adherents of religious bodies other than Christian, such as Judaism and Mohammedanism. Then there are those tens of millions, perhaps nearly half the population, who do not belong to any church or religious body. If religion were taught in the public schools, which doctrine should be taught that would be acceptable to all? What about the unchurched? Should religious beliefs be forced upon them?

to take up another routine of study, however brief. There are also in both of these plans the legal problems of compulsory attendance, record taking, and the assistance of public school teachers in having the pupils leave at the proper time and get to the proper place.

Besides these plans which include in one way or another the cooperation of the public school, there is the insistence that the home give more attention to religious and moral instruction. This insistence is always timely, because it is in the home that such instruction should first be given, and where, doubtless, when rightly done, it will have the most effect. But who is to see to it that the home responds to this responsibility, and how is the supervision to be given? One answer is that it is the duty of the church to see that this good work is done in the home. Undoubtedly this is true, but this brings us to another question. Is the church itself meeting its full responsibility in this matter of giving religious and moral instruction to the youth? The answer to this must of course be No. The church certainly is not doing all that the church itself wishes to do. In reference to time opportunities public schools have the pupil twenty-five hours or more a week; in contrast to which the church has the young person only a few hours a week, five hours at the most, usually much less, unless the child is in a parochial school. What kind of systematic instruction in religion and morality can the church give a child having him only a few hours a week, and usually in a meeting with a large number of adults present, as at the church service? Certainly the church has nothing to boast of concerning the percentage of young

people who attend the weekend church school. Certainly, too, the church recognizes that although there has been great improvement in church school methods in recent years, there is still great need for further improvement. The answer of some churches to the problem is to strengthen the parochial school system. The answer of other churches is to ask to have its children during more hours of the week, with the public school yielding some of its time. Another solution, dreaded by many who wish sincerely that religion be more effective in life, is to have a formulary of religious knowledge and ethics taught in the public schools, of such content that it give no offense to any with differentiated religious backgrounds, nor emphasize the teaching of any particular religious group. The dread is lest such a plan lead to a state religion, or lay the school open to domination by some one religious group, proving itself able to get control in some degree over the public school system.

The problem of moral and/or religious instruction in the public schools is still unsolved. Democracy is still our ideal. Religious complexities are still among us, and are by no means decreasing in number or effect. Moral breakdowns in society are still a fact, and means of moral reconstruction are still being sought. It would seem best to encourage the public schools to emphasize as much as they can the moral and spiritual values that the Kentucky Plan is endeavoring to emphasize. And let the churches stimulate their members through the home and through revitalized church agencies, to make more real in the life of the children the religion they profess.



AFTER F. E. ROBERTS, ARTIST

## ***Guarding the Precious Inheritance Bequeathed Twentieth-Century Americans by the Founding Fathers***

**By**

**CONRAD HENRY MOEHLMAN**

**S**OME OF US who have been working so long and so hard for ecclesiastical support for the American ideal of complete separation of church and state were amazed to discover a few years ago that Roman Catholicism had never accepted this interpretation and never would be able to without dire consequences to the very structure of the Catholic organization.

From there the investigation continued until it became unquestionable that numerous Protestant denominations never approved separation in the absolute sense.

But the blow "below the belt" was delivered when very prominent Baptists turned up on the wrong side of the track from our point of view.

In 1889 when Baptist intellectuals were debating separation of church and state in Toronto, Canada, Walter Rauschenbusch rose and spoke his mind in this fashion:

"In the old times Count Eberhard, of Wurtemberg, had a feud with his own son Ulrich, and in order to demonstrate how thorough was their separation, he cut the tablecloth between them as they sat at meat together. I have seen this evening the cutting of the tablecloth—the complete separation announced. But it seems to me that only one side of the principle has been announced, for all the enunciations have been negative, and not very many of them positive. We have heard here the ultimate statement of the Baptist doctrine—complete separation of church and state. But I read a short time ago the life of that great and noble man, Thomas Arnold of Rugby, and also that of Frederick Dennison Maurice; and I remember that

---

The principle of the separation of church and state is solidly supported by the vast majority of the population of the United States, but in spite of this fact the watchers on the wall must be vigilantly alert. The small minority who oppose this American principle are very active and are watching for an opportunity to form a breach in the wall and change the American way of life. "Watchmen, tell us of the night! The morning light is breaking, the darkness disappears."

---



they held the view that the church and state are necessarily, and in their very nature, one.

"Here we have two views that are at opposite poles from each other. Is either one of them absolutely false? Shall we say that this latter view is so wrong that we will have to condemn it to the uttermost depths of Tophet? Or shall we take the position that there is a way between the two? No, I don't say that. Let us not be of the men who are forever making compromise, and believing in the *via media*; let us assume the higher wisdom that says not that the one is true and the other untrue, but that both of them in some way are true.

"I hold that both of these views have the element of truth in them, but that either is incomplete without the other. *Would you accept this formula that there must be complete division in the organizations of religion and State, but that there must be an interpenetration of the life of church and state? Does that seem to you true? There must be a complete division of the organizations, because unless the church organization is completely divided from the state organization, the state organization will influence the church, and will hinder it from exercising its true functions; therefore we must divide the two absolutely and utterly. But on the other hand, the two must interpenetrate in their influences and in their life somehow or other.*

"The attempt has been made frequently enough to divorce the two. In the French Revolution the effort was made not only to sever the connection between the institutions of the church and the institutions of the state but to cast out religion itself, and we know that that was disastrous. We know also that attempts have been made to sever the connection between the life of the church and the life of the state; but I remember that God Himself said some things to us about that; He said something to us about those who believe in a multitude of sacrifices, in the lifting up of hands in prayer, and in the solemn assemblies, but who turn not aside to lift up the fallen, to bring to justice those who oppress the widow and the fatherless, and to help the needy; and I remember that His condemnation on those who thus believed only in the Christ and kept their hands away from the state was of the most severe kind. *The two must somehow interpenetrate.*

"There is a positive side to this question, and not a negative side only. The state must be built on righteousness. Its very purpose is to exercise righteousness among men, and its ultimate goal is to be merged in the kingdom of God which is to come on earth. The kingdoms of this world shall become the

kingdoms of the Christ, and the day shall come when every knee shall bow and every tongue shall confess that Jesus Christ is Lord, to the glory of God the Father. That is the ultimate glorious ideal towards which the whole organization of the world must be tending. That is the ideal of the state.

"Now, what has the church to do with it? Mr. Williams has already expressed it. I believe in the prophetic ministry of the Christian church within the state. I believe that the church is composed of men who are touched with the power of the life to come, with the power of the *aion mellon*, of the world era that is coming. They see the things that shall be in the future, but which are not yet. The church must announce those things in the ears of the state; it must declare that truth which is not yet recognized; it must perform that duty which has not yet been performed; and if necessary, it must suffer in doing so, and in suffering and in declaring the truth and in doing that which is right, it will usher in the reign of righteousness throughout the kingdoms of the world. That is the positive connection which the church must necessarily have with the state.

"Brethren, I feel sometimes that in our strong statements of the separation between church and state, we have come to gather up our skirts and to act as if the state had no more claim on us; that somehow our life as Christians and as citizens can be cut asunder; that on one side we can be Christians and on the other side we can be citizens. It is not true. We must be the two things at the same time, and we can be that in just one way—by being animated by the life of Jesus Christ, and by carrying that life into the state in every direction."

Evidently Rauschenbusch was not a Baptist supporting the radical theory of separation of church and state. His favorite word for his view was "interpenetration of church and state."

Where did he get this terminology? He was descended from generations of Lutherans. His father was the first to turn Baptist. In the findings of the Lutheran commission (April, 1953) there are statements almost identical with the Rauschenbusch terminology, particularly the "interpenetration" ideal; "both the church and the state derive their being from God and therefore should interact upon each other without being identified"; "the church in America has a singular opportunity to perform its obligation because of the blessing of religious liberty and a

---

The watchers on the wall of separation are scattered among more than four hundred religious bodies in the United States.

---



government that acknowledges the need of the church's proclamation and encourages it"; "the church should show the community an example of fraternal love, concord, and oneness in contrast to the selfish individualism so often characteristic of the world, and too often characteristic of the churches themselves."

When the Thirty-nine Articles of Anglicanism were revised after the Revolutionary War to conform to the New American politico-religious pattern it was stated that the "power of the civil magistrate extends to the clergy as well as laity in temporal things but *have no authority in things purely spiritual.*" The revised Westminster Confession of Faith of 1788 actually insists that the state must protect the church, and enable its ministry to enjoy "the full, free and unquestioned liberty of discharging every part of their sacred functions without violence or danger" and only concedes that preference should not be given to any denomination. No complete separation here!

Philip Schaff has written: "Puritanism . . . is aimed at a radical purification and reconstruction of church and state on the sole basis of the word of God without regard to the traditions of men."

Of course Protestantism in general played a role in the coming of the freedom of religion to the United States, but it was the Protestantism ushered into life by the Toleration Act of 1689 and the revolution that preceded it, and the "multiplicity of sects" that resulted from it, the latitudinarians among the Anglicans, the deists, the skeptical philosophy and religious indifferentism of the eighteenth century plus the multiplicity of economic interests in the new American environment, the individualism issuing from the total modern movement away from the medieval totalitarianism, in a word from the shift in civilization. But the tough, heroic, final efforts in behalf of complete separation of church and state were made by a few Protestant sects, men like Jefferson and Madison, for example, and Americans not members of any church.

In his classical enumeration of the guarantees of religious freedom, Schaff mentions a "wise separation of civil and ecclesiastical government" last, tying it into liberal culture, largehearted Christian charity, a comprehensive view of the truth, a free social intercourse of various denominations, and an enlightened Christian civilization, but nowhere does he label the separation principle as understood by

most Americans today as individuals, by the unanimous, three-times-rendered decision of the United States Supreme Court, and as now imbedded in the religio-political mores of the United States as a great tradition of even the American Protestant churches. It is a tradition of the American people which includes the majority of individual members of the Christian churches both Protestant and Catholic.

At present who are the watchers on the wall of separation guarding the precious inheritance bequeathed twentieth-century Americans by the founding fathers? Included among them are people in all the over four hundred varieties of religious bodies among us from Roman Catholics to the International Church of the Foursquare Gospel, from the Latter-day Saints to the Lithuanian National Catholic Church of America, from twenty and more Lutheran bodies to Mayan Temple, from Krimmer Mennonite Brueder-Gemeinde to over a score of Methodist bodies, from Old Catholic Churches in America and the Polish National Catholic Church in America to all the Presbyterian, Reformed bodies, Protestant Episcopal Church, Salvation Army, Volunteers of America, Plymouth Brethren, Eastern Orthodox Churches, Disciples of Christ, Churches of the New Jerusalem, Two-Seed-in-the-Spirit Predestinarian Baptists, Christian Science, Buddhist Mission of North America, Congregational and Christian Churches—to mention a few religious groups.

If the roll of the intensely interested and genuinely concerned, eternally alert watchers on the wall of separation of church and state were to be called, these groups would deserve special honorable mention: Seventh-day Adventist denomination, American Ethical Union, Jewish Congregations, Methodists, Baptists, Unitarians, Jehovah's Witnesses, the Humanists.

Add the Masonic Order, the POAU, leading members of various State and national bar associations, the members of State and Federal courts, and the unanimous verdicts of the Supreme Court of the United States again and again rendered in favor of the complete separation principle, and its survival in more and more vigorous form during 165 years of the vicissitudes of American nationalism and its acceptance by the UN as an organization and its approval by the world as the best solution of church-state problems—these facts and many others warrant the conclusion that the principle of separation of church and state will shortly be of the mores of the world and is already supported solidly by ninety-five per cent of the population of the United States.

There should not be undue alarm when occasionally a bit of concrete is broken from the wall. It will be replaced by a better and more substantial mixture. A battle need not be decided by the loss of a banner or a war by a strategic retreat toward Pusan. Young



The principle of church and state relationship is well established in our country, but it must be guarded and protected when attacked.



Garfield was always on his feet in Congress to defend the Union against each and every attack. One day Henry Clay asked him whether he had ever noticed that a good fish pole did not need to break when hauling in a game fish. Hence Garfield knew precisely what to say when the nation seemed near the breaking point after the assassination of Lincoln.

Between 1847 and 1870 some leaders of an American denomination decided to conduct an experiment in religious education in opposition to the rapidly developing common school system. When the attempt ended in dismal failure less than a quarter century later, it was found that only 21 churches out of a total of 4,526, that is 0.46 percent, were participating in it, and in the year of collapse had contributed only \$3,411 to sustain it! The American democracy had by 1850 sent its roots so deeply into the affections of the American people that a century of propaganda could not induce the people to forsake it. Those roots are now much more vigorous than a century ago. American democracy is beyond the experimental stage. The wall of separation of church and state stands secure.

In Richmond, Virginia, in 1888, twenty-seven-year-old Walter Rauschenbusch in a pessimistic debate over the diversion of public funds to the support of Romish parochial schools calmly stated:

Young America should know the groundwork that our founding fathers put into the structure that we call this land of the free.



"I do not take a sombre view of Romish aggression in regard to the cry of the Romish church for a part of the public funds. That cry is not the shout of the advancing victor but the breathless, painful panting of the runner who feels himself distanced in the race. I think the Roman Church is trying to get part of the public funds for the reason that their other sources of supply are falling off. I think the parochial school question will settle itself. The fittest will survive.

"Watchmen, tell us of the night!  
The morning light is breaking,  
The darkness disappears.'"

Those on the American side on this issue are more in number and far more convinced than those on the other. "A question is never settled until it is settled right." Separation of church and state is the only ultimate way to settle the problem of the relationship between church and state.

## Church and State in Philippine Public Education

By **ESMERALDO DE LEON**

*Chaplain, Manila Sanitarium and Hospital*

**T**HERE WAS A TIME when separation of church and state in the Philippines was well established in principle and in practice. Attempts to disturb the dividing line were all foiled in due time by an able and liberty-loving Chief Executive. In no uncertain terms did he make known his position on the doctrine of separation when it was threatened by the effort of a formidably organized religious group which had a solid backing of a great majority of the legislators. In a press statement issued on June 24, 1938, answering a pastoral letter of the Catholic hierarchy of the Philippines, the late President Manuel L. Quezon, champion of democracy and freedom for his people, tersely said:

"It should be unnecessary to remind the ecclesiastical authorities of the Philippines that the separation of church and state in this country is a reality

and not a mere theory, and that as far as our people are concerned, it is forever settled that this separation shall be maintained as one of the cardinal tenets of our government."<sup>1</sup>

### Constitutional Provision on Separation

Man's right to worship is God given. It is inalienable. No man or any group of men have any lawful power to deny a person the free exercise of this endowment. This basic human right is inviolable. The civil government is not only to recognize but to protect the right of every citizen in his chosen manner of worshiping his God. This fundamental principle of relationship between man and his Maker is expressly recognized and guaranteed in the fundamental law of the Philippines. The constitution provides:

<sup>1</sup> *Messages of the President*, vol. IV, Part I (Manila: Bureau of Printing, 1939), p. 666.





PHILIPPINE AIR LINES

Dewey Boulevard in Manila, Philippines, showing some of the leading hotels in that city.

"No law shall be made respecting the establishment of religion, or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights."<sup>2</sup>

The above-quoted constitutional provision does not in the least implication purport to aid religion, much less sectarian faith. The clear and unmistakable mandate of the organic law is for the civil government to protect the *right* of an individual to his chosen religion, and his *freedom* in the exercise of the same. Man's supreme ruler in the realm of religion is his own conscience. His right to worship or not to worship as his own conscience dictates must be kept inviolate.

### Meaning of Separation for Education

In their struggles for liberty one of the cardinal aims of the Filipinos was to secure for themselves and their posterity the blessings and enjoyment of worshiping as they might choose. But they were not able to enjoy these liberties fully until the coming of the Americans some five decades or more ago when the people of the islands were liberated from oppressions both by the church and the state under Spain. At that time the Stars and Stripes unfolded in the Philippines, and under her sheltering protection the principle of separation was promulgated in the land. It was only then, after four hundred long years, that the Filipinos began to breathe the atmosphere of freedom under the wings of the Christian religion.

Now, what does this principle of separation mean for education? Education must lead in the application of the doctrine of separation, both in principle and in practice, if it is to respond to the demands of

our democratic way of life. The confusions of the past and the bitter consequences of the union between church and state should teach the school authorities and the parents of all school children a lesson that should lead them to be zealously vigilant of their priceless heritage. The Filipinos do not have to study the history of other nations in order to learn the lessons of the past. The history of our own beloved country is sufficient to teach us and the future generations of the evils of church and state union.

There are two areas in particular where problems involving the issue of separation of church and state arise—the use of public funds for religious schools and religious instruction in the public schools. During the historical transition from one regime to another some fifty years ago, public education in general, in the Philippines, moved away from sectarian schools designed to promote sectarian and established religious doctrines and worship to a common school supported by public funds, free and available to all. The Philippine public school curriculum turned its back upon a content largely permeated by religion and faced the inevitable responsibility of organizing one in which the content was based upon secular knowledge and acceptable moral standards.

In 1901 the Philippine Commission promulgated Act No. 74, under which law the department of public instruction of the Philippine Government was organized. Prior to the approval of the act a very fundamental issue was debated by the members of the commission. It was about religious instruction in tax-supported schools. The commission was divided on the issue: one group advocating no religious teaching at all in the public schools on the ground that it

<sup>2</sup> Constitution of the Philippines, Art. III, Section I, subsection 7.

would be a violation of the principle of separation, and the other advocating that the Catholic doctrines should be taught in the public schools, the Philippines being a Catholic country.

To provide for a common ground between the two stubborn groups, the late Honorable William Howard Taft, who later was elected to the Presidency of the United States, and later still served as the Chief Justice of the Supreme Court of his country, as the president of the commission advanced the following opinion:

"The public school buildings could be used for the teaching of religion without violating the doctrine of separation of church and state, if such teaching was given at a time when the school building was not needed for the purpose of a public school."<sup>3</sup>

Acting quickly in line with his theory, President Taft submitted to the commission an amendment to the bill, which was approved and became Section 16 of the Act No. 74. This amendment was incorporated almost verbatim in sections 927 and 928 of the Administrative Code of the Philippines. On this point a portion of one of the messages of the late President Quezon says:

"From the minutes of the Philippine Commission . . . the following is taken: 'He [Mr. Taft] reviewed the proposed amendment in detail, pointing out its specific provisions and limitations, from which it was shown that the only use that could be made of the school building under the section was a use which was not to conflict in any way with the use of the building for purpose of a public school.'"<sup>4</sup>

Then President Quezon added, "Such then, as stated by its author, was the import and implication of the law which authorized the teaching of religion in the public schools."<sup>5</sup> From the time the Act No. 74 of the Philippine Commission was approved to the time it was incorporated in section 927 and 928 of the Administrative Code, the division superintendent of schools in the Philippines permitted the use of public school buildings for teaching religion only when it did not "in any way conflict with the use of the building for the purpose of a public school."<sup>6</sup>

#### Constitutional Provision

The constitution of the Philippines expressly provides for religious instruction in the public schools in the following words: "Optional religious instruction in the public schools shall be maintained as now authorized by law."<sup>7</sup> From this provision it is clear (1) that religious instruction in the public schools must be optional, (2) that optional religious instruction in the public schools was already being maintained in the Philippines during the promulgation of the constitution, and (3) that the policy of the government on religious instruction in the public schools during the promulgation of the constitution was according to law.

#### FOURTH QUARTER

The law mentioned as existent, and whose regulative effect on religious instruction in the public schools was confirmed and ratified by reference in the constitutional provision, was none other than Act No. 74 of the Philippine Commission. This law was "almost quoted verbatim" and "incorporated" in the Administrative Code according to the great Filipino leader. Sharing the views of its author, Mr. Quezon said:

"The letter and spirit of Sections 927 and 928 of the Administrative Code which, by reference, have been made a part of the Constitution, clearly indicate, in my opinion, that the intent and purpose thereof, is merely to tolerate the teaching of religion in the public schools and not give it such prominence or encouragement."<sup>8</sup>

#### A Joint Pastoral Letter

Yet an aggressive effort has of late been launched by a religious group to change this long-tested interpretation and implementation of the law. The three top officials of the department of education were charged with violating the "constitutional provision on religious instruction and their oath of office." The aim of the effort has been expressed clearly in a joint pastoral letter of the Catholic hierarchy in the Philippines saying, "We merely wish to ensure that optional religious instruction now authorized by law should be sincerely, seriously and effectively promoted."<sup>9</sup>

The leaders of education have been implementing a long-standing policy of the department, which policy was confirmed and ratified by reference in a constitutional provision. It is patently clear, however, that by the words "effectively promoted," the Catholic leaders in the Philippines were asking the three government officials not only to depart from their lawful implementation of the constitutional mandate but to violate the constitution. If they heed the expressed desire of the Catholic hierarchy and thus promote religious instruction in the public schools, they will be in direct contravention of the long-standing legislative and administrative contemporary interpretation of Act No. 74 of the Philippine Commission, which was "merely to tolerate" religious instruction in tax-supported schools and not make it something "desired."<sup>10</sup>

If the leaders of the department of education promote religious instruction in the public schools as prayed for in the pastoral letter, these officials of the government will be engaged in the very act of contradicting the intent and purpose of the constitutional provision: "No law shall be made respecting the establishment of religion," as by their very act of promoting, they seek the establishment of religion

<sup>3</sup> *Messages of the President*, p. 424.

<sup>4</sup> *Ibid.*, p. 425.

<sup>5</sup> *Ibid.*, pp. 425, 426.

<sup>6</sup> *Ibid.*, p. 426.

<sup>7</sup> Constitution of the Philippines, Art. XIV, Section 5.

<sup>8</sup> *Messages of the President*, p. 428.

<sup>9</sup> *Manila Daily Bulletin*, Feb. 18, 1953.

<sup>10</sup> *Messages of the President*, p. 428.

in the hearts of the school children and their teachers. Furthermore, the fact that during the particular period when religious instruction is going on, sectarian religion is being taught, will also involve violation of another constitutional provision—"without discrimination or preference"—<sup>11</sup> because the officials of the public schools will unduly be engaged in the promotion of sectarian religion while in the act of performing their official duty. Such promotion cannot but be an act of "preference" of religion if not discrimination.

In a speech on the floor of the senate, Senator Jose P. Laurel, recognized authority on constitutional law, called for the maintenance of the "mandate of the Constitution on religious teaching without however disturbing the dividing line between church and state."<sup>12</sup> Although it is to be admitted that the provision of the constitution on religious instruction is mandatory, the officials who are to carry out the mandate cannot go further than merely permitting said instruction as they have been doing without disturbing the dividing line.

From the opinion of the late Chief Justice Taft referred to previously, it is easily understood that teaching religion in the public school, optional or otherwise, is not a function of the school. In other words, when there is such teaching going on in a public school building, said school at that particular time and in such a particular room or building is functioning not as a public school. Such teaching

legitimately is the function of the particular church that has been permitted to use the public school building for the teaching of her doctrines during that particular period. Now, therefore, can we lawfully expect our education officials to act more than what they have been doing in this regard? What constitutional right has any religious organization to "wish" said officials to promote religious teaching in the public schools?

Viewed from the above consideration, it is evidently clear too that Administrative Order No. 209 promulgated by the president, which provides, among other things, that "religious instruction (shall) be given one-half hour three times a week during . . . the school session, . . ." does not only liberalize the teaching of religion in the public schools" as claimed;<sup>13</sup> it is a backward departure from the lawfully longstanding and tested policy of the department of education on religious instruction in the public schools. It blurs the clearly set dividing line between church and state. It is unconstitutional. "Any attempt directly or indirectly, to give religious teaching in the school an importance lesser or greater than is now accorded by law, would be unconstitutional."<sup>14</sup> Thus declared the late President Quezon when confronted by the same malignant issue.

<sup>11</sup> Constitution of the Philippines, Art. III, Sec. I, subsection 7.

<sup>12</sup> *The Daily Mirror*, March 2, 1953.

<sup>13</sup> *Manila Chronicle*, April 19, 1953.

<sup>14</sup> *Loc cit.*

<sup>15</sup> *Messages of the President*, pp. 427, 428.

## Unanimous Decision of the Supreme Court of Missouri

*April Session, 1953*

*Appeal From the Circuit Court of Scott County*

**By HONORABLE R. B. OLIVER III**

*Judge*

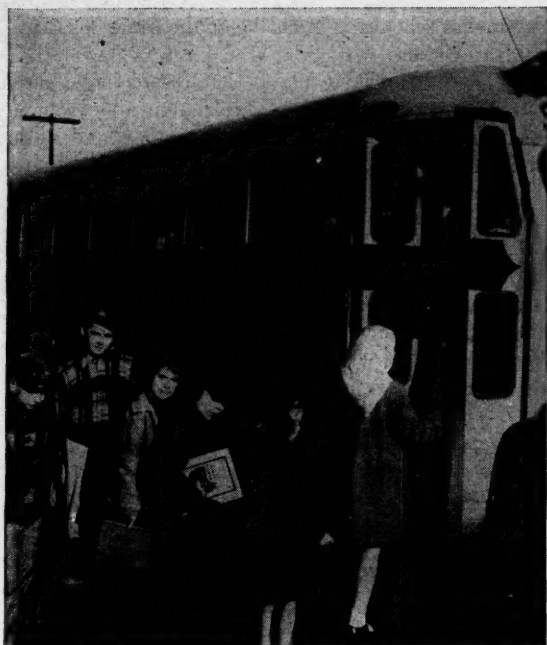
### PER CURIAM

**T**HIS IS AN ACTION by resident taxpayers of a Consolidated School District to enjoin the transportation of grade school children by a public school bus for a portion of their way to and from a private parochial school which is located outside of the school district. It appears that such transportation had been expressly authorized by an affirmative vote of the school board and that the entire cost of such transportation had been and was being paid for out of

public school funds by warrants drawn upon the "incidental fund" of the district.

Plaintiffs alleged that the use of public school funds of the school district for the purpose of providing transportation for children attending a parochial school ("operated as a private institution") and certain statutory provisions authorizing state aid for such transportation were violative of various provisions of the state and federal constitutions. The





EVA LUOMA

The use of public school funds for the transportation of children to private and parochial schools is causing much disagreement, and appeals to the courts for a solution.

trial court found the issues for defendants and entered judgment accordingly. Plaintiffs have appealed.

With minor modifications we shall adopt the statement of facts from an opinion which was prepared in (but was not adopted by) Division One prior to the transfer of this cause to Court en Banc.

Commerce Consolidated School District No. 9, hereinafter referred to as the Commerce District, lies in the northeastern part of Scott County. Plaintiffs-appellants are resident taxpayers of the district. Defendants-respondents are the county superintendent of schools, the board of education of the district, and the driver of the district school bus. The county superintendent's motion to dismiss as to him was sustained by the trial court and appellants do not complain thereof on this appeal.

Benton Consolidated School District No. 19, hereinafter referred to as the Benton District, lies west of the Commerce District in Scott County. A public elementary or grade school is maintained in the village of Commerce in the Commerce District, and a public secondary or high school is maintained in the village of Benton in the Benton District. The Roman Catholic Church maintains and operates the St. Dennis Catholic School, a private parochial school in Benton, the school offering secular courses up to and including the eighth grade. A half-hour period of religious instruction under the auspices of the Church is given at the St. Dennis Catholic School each school day of the school year. Thirty-one of the children of grade school rating residing in the Commerce District are transported to the public grade school in Commerce;

and twenty-two children of high school rating residing in the Commerce District attend the public high school in the Benton District at Benton. Seventeen or eighteen children of grade school rating, the children of families residing in the Commerce District, attend the St. Dennis Catholic School at Benton.

On school days the Commerce District school bus (the property of the Commerce District, maintained by the Commerce District, and operated by the bus driver for a stated salary under contract with the District, the whole expense of the bus operation being payable out of the District's "incidental fund") moves through the Commerce District over designated roads and transports the (thirty-one) grade school children of the Commerce District to the Commerce grade school at Commerce. During and after this movement the children attending Benton high school, and the children attending the St. Dennis Catholic School at Benton, board the school bus and are thereafter transported to a point near the line between the Commerce and the Benton Districts. There the children are received and transported by the Benton District school bus to Benton and discharged at the Benton high school or at the St. Dennis Catholic School. This process or routine method of transportation had been in effect for some years, but had been discontinued during the school year of 1948 and 1949. Presumably the free transportation of the pupils was inaugurated under the provisions of Section 165.140 RSMo 1949 V.A.M.S.

In April 1949 there arose a disagreement among the members of the board of education of the Commerce District relating to the transportation of the school children attending the St. Dennis Catholic School. The six members of the board being evenly divided, the county superintendent of schools cast the deciding vote resolving the question in favor of providing for the transportation of the school children attending the St. Dennis Catholic School. The board voted "to haul" the parochial school children to meet the Benton bus where they could ride that bus to the parochial school in Benton and return. While the petition in the instant action prays for the relief of enjoining the transportation to the St. Dennis Catholic School during the school year of 1950-1951, there was evidence introduced tending to show that the board of education of the defendant Commerce District, or a majority of the members thereof, have said that the transportation of the children attending the St. Dennis Catholic School will be continued unless enjoined.

It is not contended that there is no statute which authorizes transportation of the Commerce District pupils of grade school rating by the Commerce and Benton Districts, or by either or any other District, across the boundary of the Commerce District, and we expressly refrain from examining the question. We shall consider only the constitutional questions

raised by the pleadings and urged herein upon this appeal.

Appellants contend that, under the undisputed facts, the conduct of respondents in causing the parochial school children to be hauled in a public school bus to and from a private religious school at public expense and with the public school funds of the district was in violation of specific provisions of the Constitution of Missouri 1945, to wit, Art. IX, §5, providing for the sacred preservation of the State Public School Fund and the restriction of the use of the income therefrom exclusively to the establishment and maintenance of free public schools; Art. IX, §8, prohibiting any appropriation from any public school fund in aid of any religious creed, church or sectarian purpose, or to help to support any institution of learning controlled by any religious creed, church or sectarian denomination; and Art. I, §§6 and 7, providing that no person can be compelled to erect, support or attend any place or system of worship, or to maintain or support, any priest, minister, preacher or teacher of any sect, church, creed or denomination of religion, and that no money shall ever be taken from the public treasury "directly or indirectly" in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof as such.

Appellants also insist that Sec. 165.143 RSMo 1949 V.A.M.S., which authorizes state aid or reimbursement for certain costs of transportation of children, including children attending private, religious

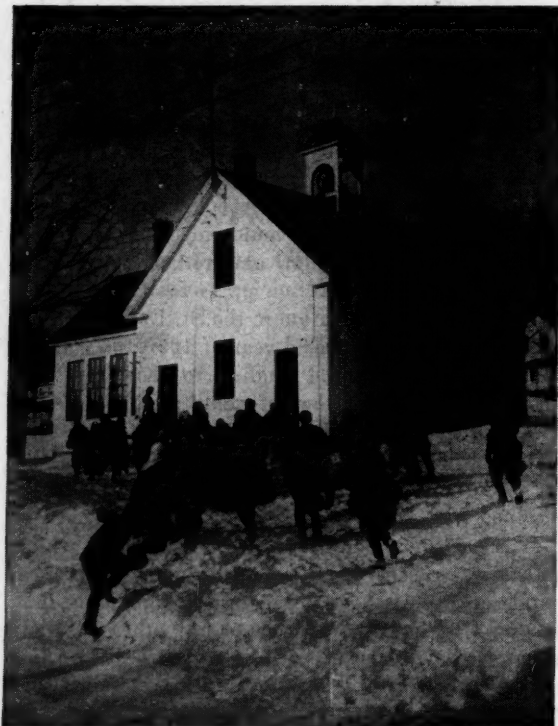
or sectarian schools, is violative of the same constitutional provisions.

Appellants further contend that respondents' conduct in transporting school children to and from a private religious school at public expense and with public school funds is violative of the rights of appellants under the constitution of the United States, to wit, the First Amendment (made applicable to state action by the Fourteenth Amendment), "in that it abridges the privileges and immunities of appellants in permitting a practice by the respondents tending to the establishment of a religion." Appellants argue, however, that "it will not be necessary to decide the case on the constitution of the United States," because relief should be granted on the basis of the state constitutional provisions.

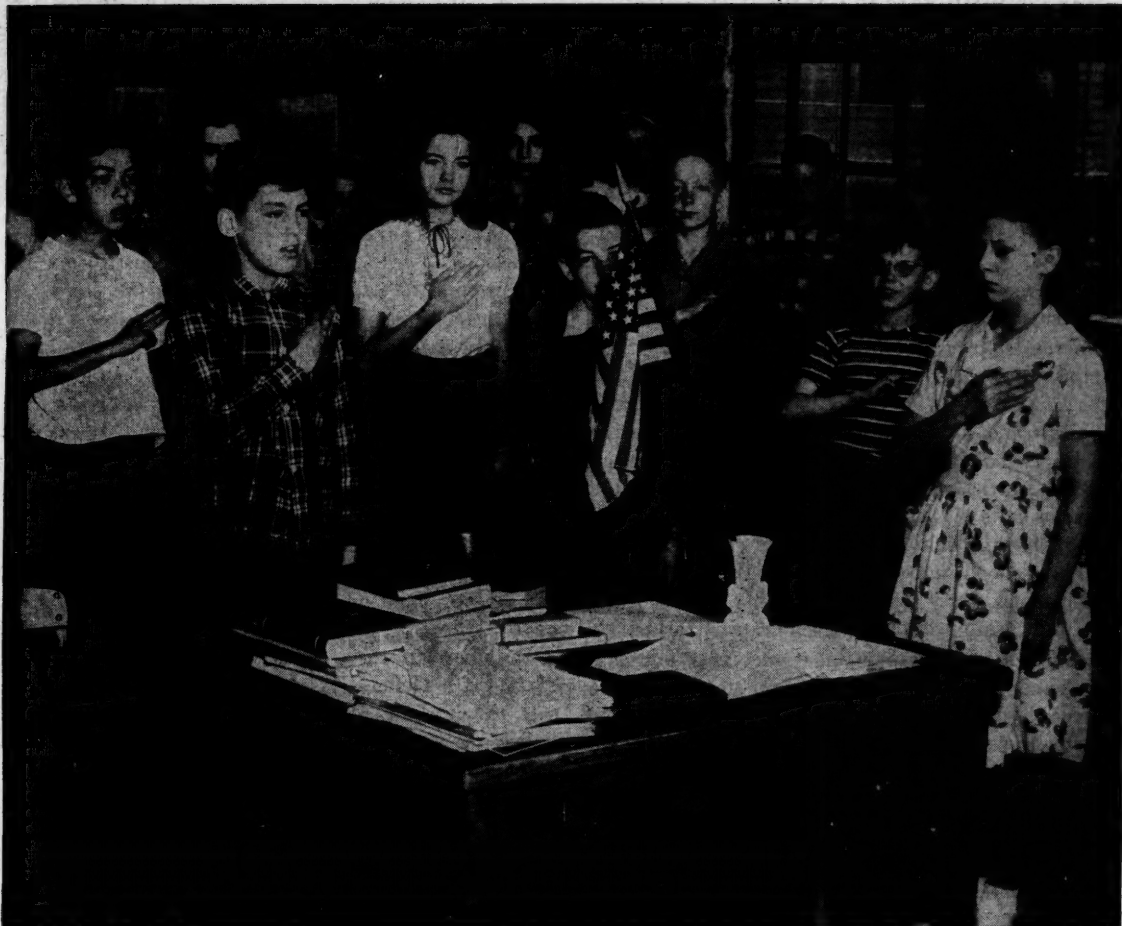
Since respondents question the right of appellants to institute and maintain this action, we shall first determine that question. It is contended that there is no proof that appellants "pay any substantial amount of school taxes," as the record is silent as to the amount of school taxes paid by the respective appellants and that appellants have failed to show "any substantial interest in the transportation of these parochial children." Respondents further insist that appellants had not exhausted all other remedies because no effort was made to get the Attorney General to institute any litigation with reference to the facts in evidence or to question the legality of the statute. The record shows that appellants, through counsel, sought to have the Prosecuting Attorney of Scott County initiate the litigation and he refused to do so; and that he furnished appellants' counsel with an opinion of the Attorney General of Missouri dated June 9, 1950 to the effect that the legislation relating to the free transportation of pupils attending parochial schools did not violate any constitutional provisions. The opinion referred to was written solely with reference to Sec. 8, Art. IX of the Constitution of Missouri 1945.

The record in this case shows an affirmative vote of the board to provide for the transportation of the parochial children by the public school bus operated at the expense of the district. If the expenditure of public school funds for the purpose mentioned was unlawful, the appellants, as taxpayers, would suffer special and peculiar injury and damage different from the general public. In such case they can maintain an action to enjoin the unlawful expenditure. Appellants' right to institute and maintain the action to test the legality of the use of public school funds for the purpose in question is fully supported by the record presented.<sup>1</sup>

Section 165.140, *supra*, authorizes the board of directors or board of education of a public school district (in provided circumstances of a two-thirds vote for free transportation, and the making of needful and reasonable rules"), to pay out of the district's



G. ANDERSON, FROM A. DEVANEY



EVA LUOMA

**"I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands; one nation indivisible, with liberty and justice for all."**

incidental fund for transportation of children to schools, public or private, free of cost to the children and their parents. The Section makes provision, and the Commerce District has paid and is paying for the transportation of children to school as herein stated.

Section 165.140 was enacted in 1911 . . . and was amended (repealed and re-enacted) in 1939 . . . by adding the last proviso of the present section, as follows: "*Provided* that this section shall include pupils attending private schools of elementary and high school grade except such schools as are operated for profit." As stated, Section 165.143, *supra*, makes provision for the distribution of state aid for the transportation of pupils. The Section was enacted in 1935. . . . In 1939, the last proviso of the present Section 165.143 was added by amendment . . . as follows: "*Provided* that for the transportation of pupils attending private schools, between the ages of six and twenty years, where no tuition shall be payable, the costs of transporting said pupils attending

private schools shall be paid as herein provided for the transportation of pupils to public schools." Thus it is observed that the Legislature, in amending the original statutes, contemplated transportation of pupils, within stated ages, to public and to private schools (sectarian or nonsectarian), except such private schools as are operated for profit. The incidental fund from which the cost of the transportation is paid is derived from local taxation, collected and paid over to the district, and in part from state aid . . . apportioned from the appropriation of state moneys raised by taxation augmented by accrued income derived from the State Public School Fund.

As stated, appellants insist that Sec. 165.143 RSMo 1949 V.A.M.S. is violative of the several constitutional provisions mentioned. In what respects, or why, does not appear from appellants' brief. Sec-

<sup>1</sup> *Berghorn v. Reorganized School District No. 8, Franklin County, Missouri*, No. 43,258, handed down herewith: *Civic League of St. Louis v. St. Louis* (Mo. Sup.), 223 S.W. 891, 893; *Hawkins v. St. Joseph* (Mo. Sup.), 281 S.W. 420, 421.

<sup>2</sup> *State ex rel. Rice v. Tompkins*, 239 Mo. App. 1113, 203 S.W. (2d) 881.



tion 165.140 RSMo 1949 V.A.M.S., which authorizes such transportation, is not mentioned in plaintiffs' petition or in appellants' brief. However, the answer filed by defendants alleged that whatever transportation had been provided by them for children of school age in their school district had been provided pursuant to the provisions of what are now Sections 165.140 and 165.143, *supra*.

The trial court refused to pass upon the constitutionality of Section 165.143 on the ground that no matter connected with said section was directly involved herein and that the record showed that the Commerce District received no state aid at any time under Sec. 165.143 *for transporting within the Commerce District the students attending the St. Dennis Catholic School at Benton*. The court found from the evidence that such students had at all times been excluded in the calculations for determining the amount of state aid, since the Commerce District did not complete the delivery of the said students to the parochial school in question and only the Benton District, not a party to this proceeding, received any funds under said section for such transportation.

Respondents insist that this Court may not pass upon the constitutionality of the said statute because the record shows that the statute is inapplicable under the facts. Respondents say that the constitutionality of Sec. 165.143 is not before the court as there is no evidence to show that any public funds were paid to the Commerce School District, or the parochial school for transporting the parochial school children; and that courts will not consider the constitutionality of an act except as applied to the facts in the record before the court. Both Sec. 165.140 and Sec. 165.143 are relied upon as a defense to the present action and the decisive question here is not what the Commerce District obtains under Sec. 165.143 for transporting the parochial school children, but what use or disposition it makes of the state school funds or state aid which it has received and does in fact receive from the State School Moneys Fund, which includes part of the annual income derived from the Public School Fund of the State.\*

Section 5, Art. IX, Constitution of Missouri 1945 provides: "The proceeds of all certificates of indebtedness due the state school fund, and all moneys, bonds, lands, and other property belonging to or donated to any state fund for public school purposes, and the net proceeds of all sales of lands and other property and effects that may accrue to the state by escheat, shall be paid into the state treasury, and securely invested under the supervision of the state board of education, and sacredly preserved as a public school fund *the annual income of which shall be faithfully appropriated for establishing and maintaining free public schools, and for no other uses or purposes whatsoever.*" (Italics ours.)<sup>4</sup>

Section 161.225, Laws 1951, p. 495, V.A.M.S.

provides that "All interest from the certificates of indebtedness and investments belonging to the state public school fund shall be paid into the state treasury and credited to the state school moneys fund, which is hereby created. All other funds *for the support of free public schools* shall be credited to the state school moneys fund and shall be paid out *for such purposes* on warrants as directed by the state board of education." (Italics ours.)

Section 3, Art. IX. of the state constitution in part provides: "All appropriations by the state for the support of free public schools and the income from the public school fund shall be paid at least annually and distributed according to law. . . . In the event the public school fund provided and set apart by law for the support of free public schools, shall be insufficient to sustain free schools at least eight months in every year in each school district of the state, the general assembly may provide for such deficiency; but in no case shall there be set apart less than twenty-five per cent of the state revenue, exclusive of interest and sinking fund, *to be applied annually to the free public schools.*" (Italics ours.)

Pursuant to these constitutional provisions, the Sixty-Fifth General Assembly passed the following acts, to wit: Laws 1949, p. 27.

Section 2.120. "The State Comptroller is hereby authorized and directed to set aside one-third ( $\frac{1}{3}$ ) of the State Revenue paid into the State Treasury for the biennial period beginning July 1, 1949 and ending June 30, 1951, into a fund to be known as the public school moneys fund; *the same to be used for the support of the free public schools.*" (Italics ours.)

Section 2.121. "There is hereby appropriated out of the public school moneys fund created by the preceding section any and all sums placed in said fund and not previously appropriated for the support of the free public schools; *said sums to be apportioned and distributed for the support of the free public schools, as provided by law, for the biennial period beginning July 1, 1949 and ending June 30, 1951.*" (Italics ours.)

The record of this case shows that the Commerce District had received and retained funds from the state by way of state aid as reimbursement for transporting children by bus. Such money is paid to a school district under the provisions of Section 165.143, *supra*. Further, Section 165.110 RSMo 1949 required that "All school moneys received by a school district shall be disbursed only for the purposes for which they are levied, collected or received. . . . Money apportioned by the state for transportation and money derived from taxation for incidental

\* Sections 3 and 5, Art. IX, Constitution of Missouri 1945; section 161.180 RSMo 1949 as amended Laws 1951, p. 493; Laws 1949, p. 27, Sections 2.120 and 2.121; Sections 165.140 and 165.143, *supra*.

<sup>4</sup> And see Section 161.180 RSMo 1949, as amended Laws 1951, p. 493, V.A.M.S.

<sup>5</sup> And see Laws 1951, p. 41, Sections 2.250 and 2.260; and Section 28, Art. IV Constitution of Missouri 1945.

expenses shall be credited to the incidental fund." Section 165.140, *supra*, required the board of education to pay by warrant the expenses for the transportation of school children out of the "incidental fund" of the district. The record in this case shows that between January 1, 1949 and February 12, 1951, the Commerce District paid out of such incidental funds of the district \$3,839.51 for the operation of the school bus, as follows: Driver's salary \$2,030.30, "repairman" \$609.60, insurance on bus \$116.48, bus supplies \$790.47 and gas and oil \$292.66. The school children transported daily to and from school included the 31 students attending the Commerce grade school at Commerce and the 22 high school students and the 17 or 18 parochial students, who were transported to and from the point of meeting with the school bus of the Benton District. As stated, all of such transportation had been authorized by the vote of the school board of the Commerce District.

In view of the issues presented on this appeal, we think the essential question is whether the use of the public school moneys, to wit, the incidental funds of the district, for defraying the expenses of transporting the parochial school children to, or part way to and from, a private school is a use for the purpose of "establishing and maintaining free public schools and for no other uses or purposes whatsoever," as provided by Sec. 5, Art. IX of the Constitution.<sup>6</sup> Also involved is the question of whether the income from the State Public School Fund is applied "to the support of the free public schools," as provided by Sec. 3, Art. IX and whether such income and the other moneys appropriated are properly used within the meaning of the act of the Legislature setting the fund aside "to be used for the support of the free public schools" and "to be apportioned and distributed for the support of the free public schools."<sup>7</sup> If the use of the fund mentioned for the purpose of transportation of parochial school children to a private school or part of the way to the private school and return is not a use "for establishing and maintaining free public schools," and if the use of the fund or any part thereof is not within the purpose for which it was dedicated and appropriated, the use must be enjoined and the transportation discontinued.

Not only do the respondents insist that the transportation of the parochial school children to the private parochial school in question was expressly authorized by Section 165.140, *supra*, but respondents in effect contend that the transportation was without cost or expense to the district and without any expenditure of public school funds. Respondents say that the uncontradicted and undisputed evidence shows, as the trial court found, that the school bus of the Commerce District did not travel one foot further, or by any different route, or make any special stops, to transport the parochial school children than would have been required to transport the school children

attending the free public schools at Commerce and at Benton; that no additional school buses were required; that the school bus in use had sufficient seating capacity to accommodate both the parochial and public school children without inconvenience; that the bus driver received the same pay that he had received when only the public school children were being transported; and that there was no additional expense or outlay of any kind incurred because of the transportation of the parochial school children within the boundaries of the Commerce District. We find no merit in this argument. One could equally contend that, since the board had expressly authorized the transportation of the parochial school children, the entire cost of the transportation was for their benefit and that the public school children were being transported at no additional expense to the district. We must and do hold that the Commerce District was using public school funds to transport the parochial school children to a private school. If the parts of what are now Section 165.140 and Section 165.143, as added in 1939<sup>8</sup> are in direct conflict with controlling provisions of the Constitution of Missouri 1945, to wit, Section 5 of Article IX, they do not and cannot constitute any defense to the present action and must be disregarded. Since the added portions of these sections do conflict with the mentioned constitutional provisions they constitute no defense to the present action. We may not in this proceeding determine the effect of such holding upon the remaining portions of said sections, however.<sup>9</sup>

Respondents further contend that the transportation of all school children, including parochial pupils, to whatever schools they may attend is valid and constitutional as a lawful exercise of the police power of the state; that the transportation of the children promotes the health, safety, and welfare of the school children and protects the children from the hazards of the road; that it facilitates compliance with and is complementary to the compulsory education laws of the state; that it is an aid to the children and their parents and not to the parochial school or to the church; that to deny them these same facilities would discriminate against the children because of their religion; and that "even if any benefits accrue to the parochial school, whatever advantages do result are collateral and incidental to the main public purpose of the legislation authorizing the transportation, and thus do not make the statute private in character and therefore invalid."

We need not review the cases cited in support of respondents' contention that the transportation at public expense of all school children to and from

<sup>6</sup> And see Sec. 161.180 RSMo 1949, as amended Laws 1951, p. 493.  
<sup>7</sup> Laws 1949, p. 27, Secs. 2.120 and 2.121. And see Sec. 28, Art. IV, *supra*.

<sup>8</sup> See Laws 1939, pp. 718-720.

<sup>9</sup> See *Missouri Ins. Co. v. Morris* (Mo. Sup.), 255 S.W. (2d) 781, 782.



whatever schools they may attend (public or private, sectarian or non-sectarian) is a valid, constitutional and lawful exercise of the police power of the state, because in this case we have a very different question, to wit, can such transportation be had to a private school at the expense of the public school fund and with funds limited by the constitution to the exclusive purpose of establishing and maintaining free public schools?

In this case we must answer this question: Where money is set aside from the General Revenue Fund of the state and placed in the Public School Moneys Fund and designated "to be used for the support of the free public schools," and where the annual income of the Public School Fund is by the Constitution of the State expressly ordered to be "faithfully appropriated for establishing and maintaining free public schools and for no other uses or purposes whatsoever," and where such annual income is by statutory authority paid into and credited to the State School Moneys Fund and where such funds are appropriated out of the Public School Moneys Fund by legislative action and ordered "to be apportioned and distributed for the support of the free public schools, as provided by law," and where a part of said funds is paid as state aid or reimbursement into the incidental funds of a school district, can such funds, or any part thereof, be used for the payment of the cost of the transportation of pupils to a private school? Would such use be for the support and maintenance of free public schools? To answer these questions in the affirmative, one would have to say that funds used to transport children to a private school supports and aids the

maintenance of free public schools. In this particular case, we would have to say that the money spent to transport the parochial school children part way to and from the St. Dennis Catholic School, a private school in Benton, aids in the maintenance of and helps to support the free public schools of the Commerce District. We cannot do so. We must and do hold that the public school funds used to transport the pupils part way to and from the St. Dennis Catholic School at Benton are not used for the purpose of maintaining free public schools and that such use of said funds is unlawful. It necessarily follows that such transportation of said students at the expense of the district is unlawful and must be enjoined. We express no opinion on any issues not directly decided herein.

The judgment is reversed and the cause remanded for judgment consistent with this opinion.

It is so ordered.

Our lay readers may not be familiar enough with some of the legal terms used to feel perfectly at ease in reading this decision, but everybody will understand that the Supreme Court of Missouri, by a unanimous opinion, has held that any money taken from the public school funds of that State and used to transport children to private parochial schools was so used in violation of the constitution of the State. Herein lies the importance of this opinion.

The circuit court of Scott County had held that State funds might be used for the transportation of children to parochial schools. The fact that the Supreme Court was unanimous in its reversal of the lower court's action and took pains to emphasize by italics certain portions of the opinion, lest their significance might be overlooked by some, is meaningful.

This is not the only case in which Missouri's highest tribunal has shown its appreciation of the need to keep church and state separate. We appreciate again, and anew, our courts.

We have referred to some earlier cases in *LIBERTY*. We hope to deal with another in our next issue. From information that we have received it appears that several places in Missouri have been offenders in the matter of using public funds for sectarian purposes either by furnishing transportation by public school busses to parochial schools, holding so-called public schools in buildings owned by the Roman Catholic Church, or hiring nuns in their distinctive garb to teach in public schools.

We think our Roman Catholic friends should stop such practices without having to be dragged through the courts.

## Philippine Republic Approves Religious Legislation

By LAURENTINO E. GONZAGA

ON JUNE 20, 1953, President Elpidio Quirino of the Philippine Republic approved bill H. No. 2855, "An Act to Prohibit Labor on Sunday, Christmas Day, New Year's Day, Holy Thursday, and Good Friday." The law becomes effective ninety days after its approval—in September of this year.

This measure, which was introduced by Congressman Miguel Cuenco of Cebu and passed by both the senate and the house of representatives *without any public hearing*, provides:

"SECTION 1. Except as herein otherwise provided, no commercial, industrial or agricultural enter-

prise or establishment, including stores and shops of any kind, shall be open on any Sunday, Christmas Day, New Year's Day, Holy Thursday, and Good Friday, from 12:00 midnight to 12 midnite. . . .

"SECTION 3. The following establishments and undertakings are excepted from the provisions of

---

An interesting view of Baguio, the summer resort of the Philippines.

---



this Act: Hospitals, dispensaries, medical and dental clinics, drug stores, stevedoring and arrastre, public utilities, including loading and unloading of cargoes, finishing and curing of fish, cattle raising and dairy, *amusement enterprises, printing and sale of periodicals* (réfer to newspapers and not to books), government and private telecommunications, activity connected with the embalming and burial of persons, domestic service, driving vehicles, restaurants or eating and/or *drinking establishments*, markets, fairs, "talipapas," "tiangués," and "saods" or "tabos": provided, however, that no cockfighting, Jai Alai games, or horse racing shall be held or non-religious motion picture exhibitions of theatrical performances made on Holy Thursday and Good Friday. . . .

"SECTION 8. Any violation of this Act of the rules and regulations issued thereunder shall be punished by a fine not exceeding one hundred pesos or imprisonment of not more than one month, or both in the discretion of the court. If any violation of this Act is committed by an association or corporation, the manager or, in his default, the person acting as such when the violation took place shall be held criminally liable."

In the explanatory note of Congressman Cuenco, the author of this act, we find this statement:

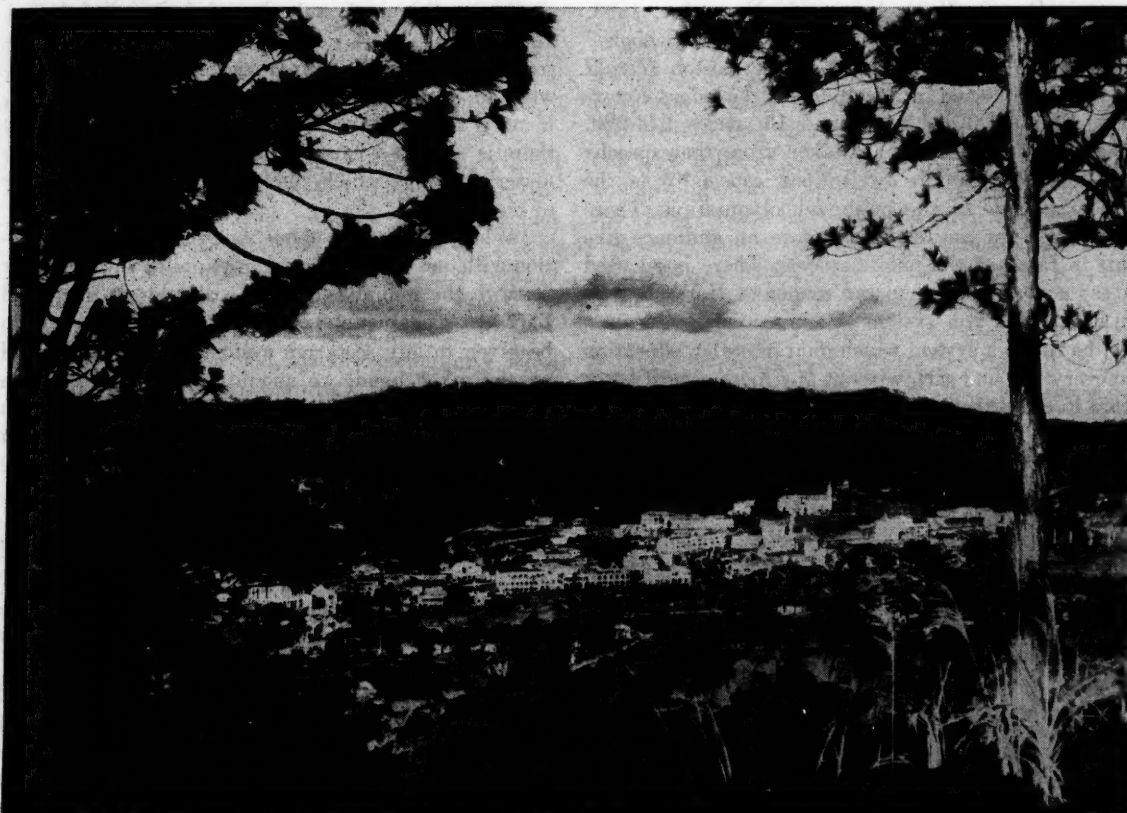
"'Descanso dominical' is sound in principle and should be enforced in the Philippines.

"It is an acknowledgment of our faith in Almighty God and a recognition of our duties and obligations to Him. A Blue Sunday law is in conformity with the religious tradition of the Filipino people, who solemnly proclaimed their faith in the existence of a Supreme Being in the preamble of our Constitution.

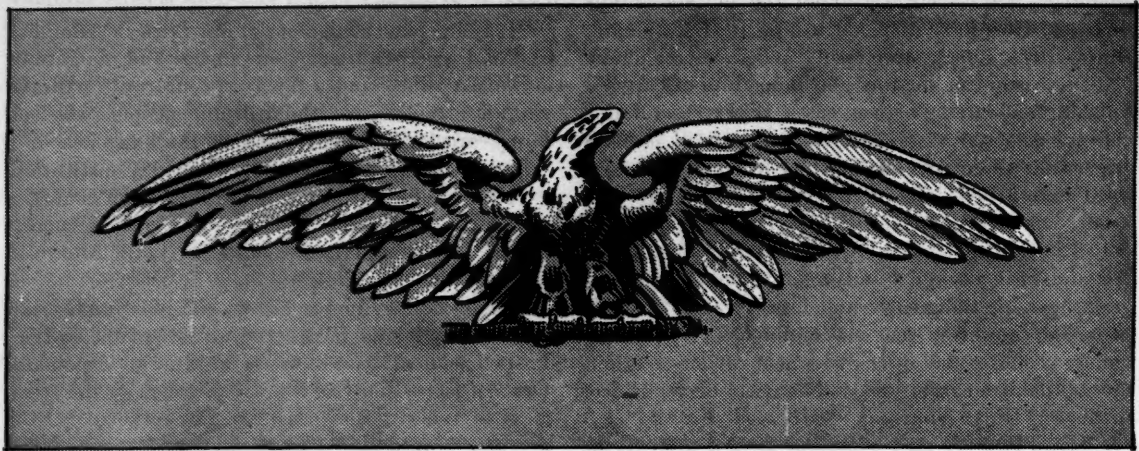
"Blue Sunday laws exist in the Protestant countries of the United States, Great Britain, and Germany, and in Catholic Belgium, Spain, and Latin American countries.

"Besides its religious aspect, a Blue Sunday law is necessary for the health and welfare of the worker. French medical science, whose outstanding exponents, Drs. Calmette and Guerin, are pioneers in the treatment of tuberculosis—they are the authors of BCG preventive formula—has recommended to a Labor Congress in Paris the adoption of a Blue Sunday law. According to French scientists, a worker needs one day in a week to breathe fresh air and replace the oxygen that the human body consumes.

"This one-day rest has also a wholesome family influence on the worker. It gives him a chance to stay with his wife and children. As it was aptly remarked by Fr. Canon Cardijn, an Australian laborite Catholic priest, in his pamphlet, *THE HOUR OF THE WORKING CLASS*, page 10, 'Not only the length of work, but also Sunday work and night work broke up the family.'"



PHILIPPINE AIR LINES  
FOURTH QUARTER



## The American Side of the Public School Question

By C. S. LONGACRE

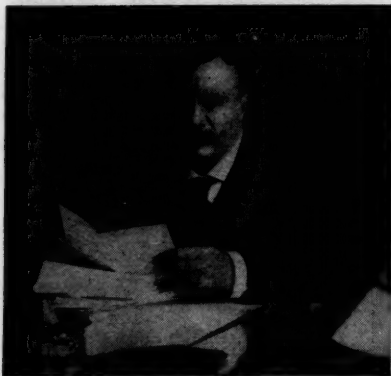
**T**HEODORE ROOSEVELT delivered an address in Boston, Massachusetts, in November, 1893, on the subject of "Religion and the Public Schools." This speech was first printed in the *Boston Herald* and later published in *The Works of Theodore Roosevelt*, National Edition, volume 13, pages 274-280. The following excerpts are taken from that speech:

"What I mean to dwell upon especially is the American side of the public-school question. There is no need for me to argue before an audience like this in favor of the public schools. There is no need to say a word to the men and women of Massachusetts in behalf of a free system of non-sectarian education by the State, a system which guarantees an education to every boy and girl, without any more regard being paid to creed than to birthplace. . . .

"It is of the utmost importance that our people shall be well housed, well clothed, and well fed; but all this shall avail nothing if they have not well-trained minds and a sturdy and convinced morality, while if only they possess these last two attributes, if only they possess character and common sense, there is no fear whatsoever that they will lack those material things which they can 'earn' by the labor of their hands. . . .

"What I have said about Americanism in connection with our whole political life applies with peculiar force to the public schools. We should set our faces like a rock against any attempt to allow State aid to be given to any sectarian system of education; and on the other hand, we should set our faces like a rock against any attempt to exclude any set of men from their full and proper share in the government of the public schools because of their religion. There should, of course, be frank and vigorous condemnation of any attempt to put in control of the public schools men hostile to them, just as there should be of any attempt to coerce children from being sent to them; but remember to be just in your condemnation, and to condemn individuals and not classes unless the classes really deserve it. . . .

"I am a pretty good party man, and do not leave my party on any issue, unless I think that I really ought to, yet I should most certainly refuse to support a school ticket made up by any party if it was made up avowedly in the interests of the professors of one



**THEODORE ROOSEVELT**  
Member of the  
New York  
Legislature,  
U.S. Civil Service  
Commission,  
President of New  
York City Board  
of Police  
Commissioners,  
Assistant Sec-  
retary of the Navy,  
Governor of  
New York State,  
Vice-President of  
the United States,  
Twenty-sixth  
President of  
the United States.

creed—whether it was my own creed or not—and with the purpose of discriminating against those who hold a different religious belief. If I found that Catholics were attempting to establish Catholic control over the public schools, I should certainly fight them for all that was in me, and if I found that Protestants were trying to do the same thing, I should fight them every whit as hard. . . .

"When I was in the New York legislature, on two or three different occasions, bills were introduced

appropriating money to Roman Catholic institutions, and I opposed them on the broad ground that it was against the American idea to give money for any sectarian purpose, and though I was denounced, of course, by certain bigots for my attitude, yet I received the hearty and cordial support of the bulk of my Catholic friends and associates, social and political, and of all those for whose opinion I most cared; and there were Catholic votes cast as mine were in the New York legislature."



## The Spirit of Gratitude at Thanksgiving Time

By DONALD F. HAYNES

**A**MERICANS HAVE BEEN HONORING this special day since the first harvest of the New England settlers in 1621.

The spirit of gratitude for the mercies of Providence is at the very heart of all that is American, deeply grounded through the annual recurrence of Thanksgiving days.

Could those early fathers have seen the coming third of a millennium, they would undoubtedly have been far more thankful for the things yet to come than they were for those things which had already been.

For since that first Thanksgiving day the scattered and struggling colonies have developed under the prospering hand of God into the accepted leader among the free nations of the world.

Winston Churchill said in a speech at the Waldorf Astoria in New York on February 16, 1946, "The United States stands at the highest point of majesty and power ever attained by any community since the fall of the Roman Empire." The same day, in the same city, the same Churchill said in a speech at the New York City Hall, "Today the United States stands at the summit of human affairs. From every side the nations look to her. She has a greater measure of power, a greater measure of world regard and esteem. She marches in state and majesty which have not been seen in this world since the fall of the ancient classical Roman Empire."

Also on March 15, 1946, in Atlantic City, Grove Patterson, editor of the *Toledo Blade*, said in a speech before the 45th International Council of the Young Men's Christian Association of North America, "The strongest nation in the world, we are called by the stern voice of duty to assert our leadership and to use it in all the affairs of mankind."

FOURTH QUARTER

At the close of the year, on December 29, 1946, Anne O'Hare McCormick, columnist for the *New York Times*, wrote, "The United States is the great force on this planet."

The following April, Mr. Churchill repeated this word, "The United States has become the most powerful force in the world."—*New York Times*, April 12, 1947.

Bruce Barton added on November 6, 1949, in his widely syndicated column, "With ever-deepening faith and gratitude I believe in the United States. We are not just another nation. We are something new and different in human history. A land of freedom, of opportunity, of hope . . . the dynamic that can change the world."—*Washington Evening Star*.

None of this was foreseen by the small company of liberty-loving inhabitants of the Atlantic seaboard in the early part of the seventeenth century.

A resolution passed by the Continental Congress in 1777 officially chose the now-beloved Stars and



REVIEW PICTURES

Another artist's conception of the Pilgrim Thanksgiving.



Stripes, "Resolved, That the flag of the United States be 13 stripes, alternate red and white; that the union be 13 stars, white in a blue field, representing a new constellation."

Thanksgiving Day should be to every thinking and grateful citizen a time of rededication to those principles, the exemplification of which has made this nation into the leader of the world respected and honored by her friends and feared by her enemies.

Under the continuing providence of God the people of the United States have it now in their grasp to make the future count still further for God and righteousness in the extension throughout the length and breadth of this great and prosperous nation of the liberty and the right to live, to speak, to vote, to worship, to pray, and to propagate the truth of the gospel message as free men, without aid or interference, pressure or dictation from state or organized religion.

The power of the traditional American Thanksgiving Day lies in what we are willing for God to do for us, and we for Him, in the days that are yet to come. "Now thank we all our God." God bless not only America but every nation that shows its thankfulness in deeds as well as in words for Heaven's bounties.

### Michigan School District Denied State School Aid Because of Sectarian Program

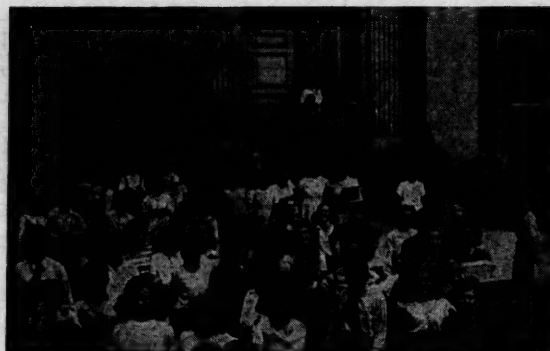
**LANSING**—Detailed reasons for withholding State school aid from Maple Grove School District No. 1 were made public today by State Supt. of Public Instruction Lee M. Thurston.

He announced the decision on May 28, saying an investigation "leaves no doubt that your school program is sectarian."

Since then Thurston vetoed a consolidation proposal, because of "lack of sufficient assessed valuation for operating a 12-grade school and at the same time constructing an adequate school plant." It had been proposed that Maple Grove Township districts 1, 3, 4, 5, 6, 7, and 8, Saginaw County, be merged into a rural agricultural school district.

Monday Thurston was visited by members of the local board of education, who sought an explanation for his action in halting State school aid estimated to amount to approximately \$70,000 next year, based on grants for the school year now ending.

Today Thurston released the following "partial



H. M. LAMBERT

statement of facts given members of the board of Maple Grove School as to why their public school program was declared to be sectarian and subject to withholding of State school aid."

"1. Segregation of pupils—Out of a community population of mixed religious faith the investigators were unable to find any other than Roman Catholic children in attendance in the Maple Grove School. Protestant pupils were transported to public schools outside the school district.

"2. Teachers—The normal employed-employee relationship between board of education and the teachers did not exist. When nuns were employed as teachers there were no interviews. The board took all who were offered by the mother superior without discrimination, and took no part in their selection. Rarely was there a record of their employment. Tenure as a teacher was determined not by the school board but by the mother superior. Whereas the law says a teacher in a public school must have a written contract, when nuns were employed there seldom were contracts.

"3. Library—Studies were so arranged as to oblige pupils to go into the library of the Catholic Church where books with assigned readings were of a profoundly sectarian character.

"4. Children were asked, 'Why do you go to Maple Grove School?' Among the answers were: 'We go there because we can be taught by sisters.' 'We go there because it is a Catholic school.' When asked who was the head of the school, answers included, the superintendent of schools, correct. Other answers were: The sisters, Fr. Wolf, and in one instance the answer was the pope.

"5. Holy days of the Catholic church were designated to be public school holidays.

"6. Nuns who taught in the Maple Grove School were exempted from payment of the withholding tax by an officer of the Federal Government, which apparently thus recognized them to be agents of the church rather than agents of the public school.

"7. Many things were done to thrust the public school pupils into the environment of the church. The main entrance to the public school was by way





J. SCAYLE, FROM A. DEVANEY

of a sidewalk that went past several of the church buildings. Over the main door of the schoolhouse there appeared the name 'St. Michael's School,' which is not normally a public school name. Parents and school board were obviously entrusting the educational and religious training alike of the pupils to the sisters who were the public school teachers."

In addition, Thurston cited the following legal references:

State Constitution—"No person shall be compelled to attend, or against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purpose. The Civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief."

1948 State law—"No school district shall apply any of the moneys received by it from the primary school interest fund or from any and all other sources for the support and maintenance of any school of a sectarian character, whether the same be under the control of any religious society or made sectarian by the school district board."—W. HARRIS COATES in the *Flint (Michigan) Journal*, June 9, 1953.

## Air Force Corporal Denied Citizenship—He Appeals Case

WLADYSLAW PLYWACKI, 24, had passed all his tests for U.S. citizenship with flying colors. Imprisoned for five years by the Nazis in his native Poland before he escaped to the U.S., he had served a hitch in Japan for his adopted country. He was an Air Force corporal stationed at Hickam Field, Honolulu, when he came up before Federal Judge J. Frank McLaughlin to take the official oath and become an American:

"I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sov-

ereignty . . . that I will support and defend the Constitution and laws of the United States of America . . . and that I take this obligation freely without any mental reservation or purpose of evasion . . ." But here Corporal Plywacki boggled. The next words were "So help me God." Wladyslaw Plywacki explained that he was an atheist, therefore could not in honesty use these words.

Judge McLaughlin directed Plywacki to take a coin out of his pocket. "What does it say on the back?" he demanded. When Plywacki had read the legend, "In God We Trust," Judge McLaughlin made a little speech.

"Our Government is founded on a belief in God. You are asking for the privilege of being part of the Government, but you are apparently seeking admission on your own terms. If you are not willing to take the oath in good faith, the oath prescribed by the Congress of the United States, I cannot grant your petition."

The court immigration officer, surprised that the judge had not merely substituted an affirmation of allegiance permitted for those who object to oath-taking, suggested that, since Plywacki was about to leave for the States, the whole matter could be settled on the mainland. But Judge McLaughlin, a Roman Catholic, had his principles, too. He ruled Plywacki ineligible for citizenship.

Plywacki appealed to the ninth circuit court of appeals in San Francisco. His argument: "If a native-born citizen is entitled to freedom of religion, which would include the right not to believe in God, then a petitioner for naturalization has the same right." Last week the Justice Department in Washington told its office in Honolulu to "confess error," indicating that it would not support Judge McLaughlin's ruling in the appeals court. But Immigration Service lawyers have so far been unable to find a single direct precedent for a case like Plywacki's, and there remains the possibility that the court will be required to make a historic decision.

Judge McLaughlin, meanwhile, is sticking to his spiritual guns. "I appreciate the right of a person to be an atheist," he says. "But if you join an organization that has principles based on the existence of a Supreme Being—from the Declaration of Independence on down to the latest pronouncement by President Eisenhower on the importance of religion—you must abide by the rules of that organization."—Courtesy of *Time*, May 4, 1953, pp. 57, 58. Copyright Time, Inc., 1953.





## Nuns Not to Teach in Public Elementary School

IT WAS CHARGED in a suit brought by Mrs. Dorothy M. Larson that what was known as a "public" school in Johnsbury, Illinois, was actually a parochial school.

The essential facts back of the suit reveal that about fifteen years ago the elementary school burned down and public school classes were transferred to the St. John Parish Catholic school. Later the parochial school building was rented to the public school district, but the parochial teachers were continued as teachers of the so-called public school. Somewhere along the line public money was appropriated for the support of the school, though the teachers were all nuns and various sectarian practices were continued.

In 1950 public funds to the amount of \$212,000 were paid for a new public school building, but instruction was still given by members of a Catholic religious order or orders.

Evidently Mrs. Larson's suit was effective, because it is now reported that Roman Catholic nuns will not teach in the public elementary school of Johnsbury, Illinois, when school opens in the fall. Mrs. Larson intends to push her suit, we hear, feeling that many people would like to see this question of "constitutional violation of the separation of church and state decided by the court."

We suspect that all Mrs. Larson might have secured, if the conditions to which she is opposed had continued, would have been an injunction to stop them. We hardly believe that a criminal charge against the school authorities would stand up unless it were proved that they were guilty of malfeasance. Unless the law provided a penalty for what the authorities of the school district at Johnsbury have done, and have now quit, what can be accomplished by a suit?

We have an idea that the action taken in so many States against using public monies to operate parochial schools—no matter what they are called—ought to give pause to Roman Catholic clerical leaders. What has seemed like a concerted, confident effort to get public funds for church uses must stop.

H. H. V.

## Legacy for Masses Ruled Taxable

IN OUR ISSUE for the fourth quarter for 1952 we gave an opinion of the probate court of Sandusky County, Ohio, which was affirmed by the

sixth district court of appeals sitting in Toledo, holding that \$8,785 left by Margaret A. Shanahan to be expended for masses for the repose of her soul and those of a number of her relatives was not taxable.

The Ohio Supreme Court unanimously overruled the lower courts, deciding that the State had a right to collect the inheritance tax on this legacy. The decedent's attorney, in oral arguments, contended that the bequest had the status of a contract, and was therefore a debt against which a tax should not be levied. The court disagreed with this contention, holding that a stipend for saying masses is not a debt of the estate, since there was no contract which could create such a debt.

We know nothing of Ohio's tax laws. Even if we did, we would hardly be so bold as to question the wisdom of jurists of the learning and experience of those who constitute Ohio's highest tribunal. But we cannot help feeling that the amount of money a person provides for services felt to be vital for his eternal welfare ought to be classed as belonging to God rather than to Caesar.

H. H. V.



COURTESY, CANADIAN NATIONAL RAILWAY

Canadian Parliament Building.

## NEWS NOTE FROM CANADA

### Hats Off to Louis S. St. Laurent

THE RETURN of the Liberal government under the Right Honourable Louis S. St. Laurent in the general election of last August 11, with a slightly reduced majority, indicates that Canada will continue to have a Federal Government whose policies lean toward the center or somewhat left of center in the political spectrum.

LIBERTY, 1953



Though LIBERTY is not primarily concerned with party platforms or doctrinaire distinctions, it probably is interested in the personalities whose convictions concerning the broad areas of religious freedom are a vital factor in keeping the Dominion of Canada free.

After the heat and fury of the election campaign are over some of the issues that were debated on the hustings appear to lose their significance.

The question of diplomatic representation at the Vatican, which was introduced just before the close of the campaign in an endeavor to embarrass Mr. St. Laurent before his fellow religionists in his home

province of Quebec, might well have been ignored by the prime minister, but he elected to face the question and answer it.

Our hats off to his courageous and forthright reply that such a step would not be taken so long as it would be interpreted as bestowing governmental recognition upon a church at the expense of the sentiments of other loyal Canadians. This frank and straightforward answer will be appreciated by Protestant Canada, which is just as anxious to foster national unity, but not at the cost of official recognition of a church, an act which would negate the principle of the disestablishment of religion in the dominion.

## NEWS and COMMENT

### **Declines Legal Action to Bar Nuns From School**

**FRANKFORT, Ky.**—Kentucky's attorney general, J. D. Buckman, Jr., has declined to take legal action to stop Roman Catholic nuns from teaching in some of the State's public schools.

Mr. Buckman was asked by Eugene Siler, Williamsburg, Kentucky, to file suit to enjoin the State treasurer from sending public school money to the districts involved.

Mr. Siler charged that the constitutional guarantee of separation of church and state is being violated in the districts of Washington, Nelson, Marion, and Casey counties.

Mr. Siler is moderator of the General Association of Kentucky Baptists. A former judge of the Kentucky Court of Appeals, he was the unsuccessful Republican nominee for governor in 1951.

In a letter to the attorney general, Mr. Siler made these charges regarding the four school districts:

1. Nuns wear religious garb and emblems while teaching in public schools.
2. The Roman Catholic catechism is either taught or made available to children of all faiths in the schools.
3. Public school buildings are rented from the Roman Catholic organization without payment of adequate rent.
4. In some districts public schools have been discriminated against in predominantly Protestant sections.

In declining to take action, Mr. Buckman said Mr. Siler's charges of constitutional guarantee violations were not sufficiently supported by concrete evidence. The attorney general added the charges had not been called to his attention by the State board of educa-

tion or county boards of education involved.—Religious News Service, Aug. 6, 1953.

### **Soviets Bar Amnesty to Religious Prisoners**

**LONDON**—An amnesty decree issued by the "Presidium of the Great People's Khural of the Mongolian People's Republic," under which certain classes of prisoners were released from jail, specifically excluded those who propagate religion, the Moscow radio reported.

The station said the amnesty does not cover "persons convicted for counter-revolutionary activities, banditry, squandering of public property, premeditated murder, for the propagation of religion of any kind and religious superstitions for the masses, and rape."

The Mongolian Republic is one of the sixteen republics in the Soviet Union.—Religious News Service, Aug. 13, 1953.

### **Supreme Court to Weigh Definition of "Minister"**

**WASHINGTON, D.C.**—The issue of what constitutes a minister of religion under the Selective Service Act will come before the U.S. Supreme Court next October.

This was determined here when the nation's highest tribunal agreed to hear arguments at its fall session on an appeal from a decision rendered in San Francisco, California, last March by the Court of Appeals of the Ninth Federal Circuit. The appeal was filed by legal counsel for the Watchtower Bible and Tract Society, governing body of the Jehovah's Witnesses.

The appellate court had upheld the ruling of a local California draft board classifying George Lewis Dickinson, a sect member, as 1-A and rejecting his claim, as a "minister," for exemption from military duty.

The principal points cited by the appellate court judges were that Mr. Dickinson, under twenty at the time, was too young to be a qualified minister, that the sect's definition of what constitutes a minister is "quite different from the ordinary conception" of that term, and that Mr. Dickinson had failed to produce evidence that he had been certified as a minister by the religious body he serves.

Attorneys for the sect contended in their appeal to the Supreme Court that no one is qualified to determine who is a minister except the religious body he serves. They also said that Mr. Dickinson (now twenty-two years old) was in fact at the time of the draft board's ruling "full-time presiding minister of a congregation" at Coalinga, California.—Religious News Service, Aug. 13, 1953.

## Religious Garb Banned in Schools

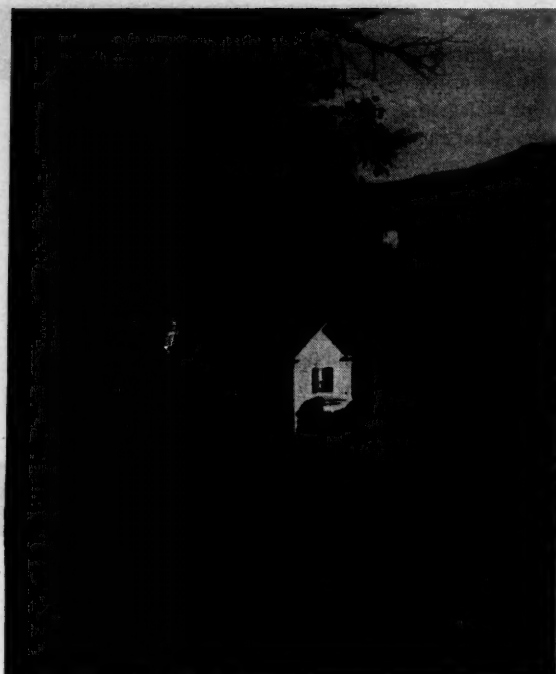
**ORANGEVILLE, IDAHO, AUG. 1.—(AP)—**The long controversy over the right of teachers to wear religious garb while teaching in public schools has ended for Idaho County District 241. The school trustees decided not to hire Catholic nuns next year.

The 3-2 vote against the hiring of nuns for work in the predominantly Catholic district came after a stormy session. One trustee said the failure of Idaho's attorney general, Robert Smylie, to give an opinion on the right of teachers to wear religious habit in public classrooms prompted the action.

The trustees asked the state board of education last May to seek a legal opinion from Smylie on the employment of nuns.

## Catholic Bishop Urges Better Sunday Observance

**BOTH CATHOLIC AND PROTESTANT** pastors were urged to work for better Sunday observance in Columbus, Ohio, through a letter sent out by Bishop Michael J. Ready of the Catholic diocese of Columbus, and a committee of the Columbus area Council of Churches. To a part of the letter no objection could be taken because it is the right of religious leaders to urge upon all their members faithful adherence and obedience to the teaching of their churches. A sentence or two, however, create the impression in our minds that if the admonition is not heeded the Ohio Sunday law might be invoked. To call upon civil officers to enforce church dogmas is always and eternally wrong. God does not need such help.



WINSTON POTTS, FROM A. DEVANET

A bit of scenic New England.

"The letter says, in part:

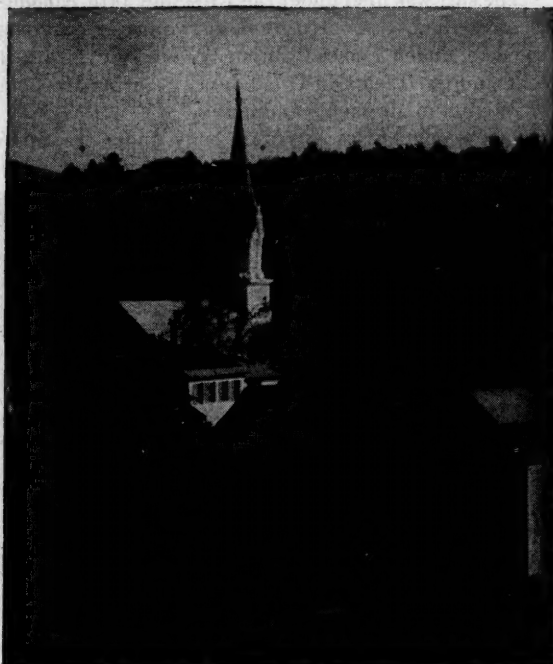
"In our Columbus area, we look with genuine concern upon the increasing disregard of the observance of Sunday as a day held sacred, either for rest or worship. . . .

"Stores and business places of all kinds are not only opening their doors for business on Sunday, but are engaging in extensive and flagrant advertising brazenly designed to induce people in our city to make Sunday a principal shopping day.

"Such offenders are taking unfair advantage of the majority of conscientious business men, their competitors, who are faithfully closing their business places on the Lord's Day. As a consequence, creditable individuals have informed us that they feel this unfair competition so keenly they themselves will reluctantly be forced to open on Sunday also, if the others are not induced to close.

"As Christians, we clearly recognize the right of business firms, operated by sincerely pious individuals who observe their Holy Day on Saturday, to remain open for business on Sunday . . . provided those firms observe their religious holidays faithfully, do not use mock piety as a shield behind which they may practice obvious commercialism and unfair advantage over Christian competitors, or flagrantly advertise their Sunday openings in a manner designed to induce Christians to violate their conscientious observance of the day. . . .

"We also point with a sense of shame to the fact that almost all the business places operating on Sunday in our city, with the exception of a limited num-



WINSTON FOTO, FROM A. DEVANET

With churches and schools and peaceful homes.

ber classified as "essential services," are open in bold defiance of existing laws and ordinances clearly prohibiting such activity.

"We recognize also that public opinion alone can furnish the basis for enforcement of law.

"We urge all citizens . . . to rise up and demand that the increasing desecration of our Lord's Day be terminated.

"Finally, we recognize that no place of business will open its doors after the number of patrons who cross its thresholds on Sunday make such an opening unprofitable. We therefore urge the Christian citizens of our community to examine their consciences in this respect, and refuse henceforth to be a party to this encroachment upon Sunday observance by supporting business firms that show disrespect for the Lord's Day."—*Ohio State Journal*, June 26, 1953.

## Bus Transportation Decision Reversed

A READER has sent us this clipping from a newspaper, but failed to give the name of the paper or the date:

"The Rhode Island commissioner of education, Mr. Michael F. Walsh, has sensibly reversed an earlier decision of the Cranston school committee denying free bus transportation for pupils attending a parochial school.

"This matter was settled some years ago by the highest court of the land. It is late, and certainly

FOURTH QUARTER

unbecoming, for any municipal body to adopt a different and erroneous attitude.

"The Supreme Court has upheld the increasingly wide-spread belief that a bus, paid for and supported by the taxpayers, is not an integral part of the school system.

"Accordingly boys and girls attending parochial and private schools of any religious denomination have a right to ride in the vehicles their parents have helped to buy and maintain.

"It is pertinent also to note that most cities and towns would be in serious financial trouble if any controversy were to close parochial schools and force the transfer of all their students to the public schools."

## E.U.B. Church Adopts Statement on Church-State Relationship

DAYTON, OHIO—A statement expressing the "unalterable" opposition of the Evangelical United Brethren Church to the use of public funds to aid parochial schools was adopted here by the denomination's Committee on Christian Social Action.

The statement, which had as its topic "The Relationship of Church and State," and dealt with various other aspects of this subject, had been approved earlier by the Church's Board of Bishops.

"Those who promote parochial schools," it said, "should accept the responsibility of providing full support for such schools. We believe that the subsidization from public funds of education carried on under religious auspices would both violate the principle of separation of Church and State and be a devastating blow to the public school system."—*Religious News Service*, July 16, 1953.

## Nuns Not to Be Hired

CLIPPINGS from the Lewiston, Idaho, *Morning Tribune* report lively discussions concerning the continued hiring of nuns to teach in what are known as public schools. One of the dispatches from Grangeville contains this statement: "The trustees in a split vote decreed July 27 that the nuns will not be hired again this year. They have been teaching in some west side public schools for as long as 40 years." (Italics supplied.) Three of the trustees of the school district felt that the practice should be abandoned. Two argued for its continuance. From some things contained in the clippings it appears that the matter will not be entirely settled until the supreme court of the State passes upon it because the attorney general, Robert Smylie, had ignored the request of the trustees, made through the superintendent of public instruction and the State board of education, to render an opinion on the matter.





A. DEVANEY

There are two holidays during this quarter that most Americans celebrate with special music to fit these occasions for festivities.

## Protestant Indians Bring Religious Freedom Suit

ALBUQUERQUE, N.M.—Six Protestant Jemez Indians have filed suit in U.S. District Court here asking a court order guaranteeing their right to worship according to their wishes.

The suit, which states it was brought on behalf of the 90 Protestant residents of the predominantly Roman Catholic Jemez pueblo, charges that the pueblo council there had deprived them of their religious freedom.

Juan Luis Pecos, governor of the pueblo, is named a defendant as well as the pueblo council.

According to the complaint, the Protestants have been denied the right to bury their dead in the communal cemetery or to establish a cemetery of their own. It was also charged that the defendants refused the Protestant Indians the right to have a church of their own or to use their homes for prayer meetings or church services. Protestant missionaries, the complaint said, were not permitted to come and go freely within the pueblo.

The suit further alleges that on July 21, 1952, the council "threatened non-Catholic Jemez Indians with the loss of their birthrights, homes, personal property and right to share in community work if they did not become Catholic."

Another charge made by the plaintiffs said they had been threatened with loss of their wheat crop.

The suit was filed under the First and 14th Amendments to the U.S. Constitution, guaranteeing religious freedom under Federal authority, and the Kearney code and the Treaty of Guadalupe, granting freedom of religion to all pueblo Indians.

Jemez pueblo is a corporate body under the State laws in Sandoval County. It has a population of about 1,025 Indians, of whom all but the 90 mentioned in the suit are Roman Catholics.—Religious News Service, Aug. 6, 1953.

## Tax Exemption Claim Denied

AN ORDER of the State tax commission of the State of Idaho involving certain kinds of church-owned property may be of interest to our readers. The matter involved was heard by the tax commission last August, and the decision was handed down in November, 1952.

"IN THE MATTER OF THE APPEALS OF CEDRAM WARD CORPORATION, TETONIA WARD CORPORATION, BAKES WARD CORPORATION, CLAWSON WARD CORPORATION, PRATT WARD CORPORATION, DRIGGS WARD CORPORATION AND VICTORIA WARD CORPORATION FROM THE ORDER OF THE COUNTY BOARD OF EQUALIZATION OF TETON COUNTY

ORDER

"... The protestants are corporations sole, being units of the Church of Jesus Christ of Latter Day Saints whose headquarters and presiding authorities are situate in Salt Lake City, Utah. Protestants each own and operate certain farm properties situate in Teton County and had claimed those properties as exempt from taxation before the County Board of Equalization of Teton County. That board denied the claim and an appeal from the order of the county board was made to this Commission under the provisions of the Idaho statutes.

"The Church of Jesus Christ of Latter Day Saints, which will hereafter, for convenience, be referred to as the Church, is organized into what are known as wards and stakes. These are corporations sole and have defined geographic areas. The ward is the smaller of the two, and a stake consists of several wards. The protestants are in the category of wards. Each ward and stake, and each subsidiary ecclesiastic organization within each, is presided over by officers elected or chosen for the task. The head of a ward is styled a bishop, and the head of a stake is a president.

The singing of ballads and carols at Christmas time is an old American custom and tradition. These melodious tones are sweet music to our ears as they come to us wafted on the brisk wintry air at eventide. Thankfulness and peace fill our souls as we listen to the young as their hearts overflow with songs of praise and joy during this festive season.

"While the Church and its component wards and stakes are essentially religious organizations there is, as is usual with religious organizations, a certain amount of charitable work incident to its spiritual activities. In 1936 the Church began to place the charitable work on a very comprehensive organized

basis, with the ultimate aim of taking its members off the public assistance rolls.

"The result of the organization of the Welfare Program of the Church was brought out very clearly in the testimony before this Commission. Each stake and ward is assigned a particular project, with a money value assigned to the quantity that unit is expected to produce. In Idaho a substantial number of wards and stakes own farms. These produce grain, sugar beets, fruits and vegetables. In some instances the specified project may be the maintenance of a herd of beef or dairy cattle. Fruit and vegetables are processed and canned locally and the finished product shipped to a central store house in Salt Lake City. Where the quantity assigned to a particular unit is not met, the unit makes up the difference, in cash, between the cash value of the quantity assigned and the cash value of the quantity produced. Where a surplus results it is sold on the open market. In other instances, a commodity which may be processed, such as beef, is sold on the open market and the cash proceeds



EVA LUOMA  
FOURTH QUARTER



Since liberty is the heritage of all men, why not send LIBERTY, the Magazine of Religious Freedom, to at least five of your friends and neighbors. Help them to become more familiar with the principles that you hold so dear.

Believing that many of our readers would like to aid the cause of religious freedom in this way, we have prepared an order form that can be used in sending in a list of subscriptions. This coupon appears below.

Should you wish to send in more subscriptions than this coupon provides for, you may attach an additional sheet of paper, listing names and addresses.

Please send LIBERTY, the Magazine of Religious Freedom, published in the nation's capital

To \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ Zone \_\_\_\_\_ State \_\_\_\_\_

To \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ Zone \_\_\_\_\_ State \_\_\_\_\_

To \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ Zone \_\_\_\_\_ State \_\_\_\_\_

To \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ Zone \_\_\_\_\_ State \_\_\_\_\_

To \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ Zone \_\_\_\_\_ State \_\_\_\_\_

#### Rates:

One year, \$1.00 each ☐ Special, 5 subs to separate addresses, \$3.00 ☐ Three years, one address, only \$2.00 ☐ Enclosed find  
Check ☐ Money order ☐ Currency ☐

Send your order to the

**Religious Liberty Association**  
6840 Eastern Avenue, Washington 12, D.C.

remitted to the central agency. This is done when it is more economical to sell the product than to ship to the central agency.

"Section 63-105, Idaho Code, exempts from taxation:

"2. Property belonging to any religious corporation or society of this state, used exclusively for and in connection with public worship, and any parsonage belonging to such corporation or society and occupied as such, and any recreational hall belonging to and used in connection with the activities of such corporation or society."

"The property owned by the protestants admittedly does not come within the foregoing definition of exempted property. But protestants claim exemption on the basis of their being charitable organizations. Subsection 3, of Section 63-105, supra, exempts from taxation:

"Property belonging to any fraternal, benevolent, or charitable corporation or society . . . used exclusively for the purposes for which said corporation or society is organized. . . ."

"It is an axiom of statutory construction that tax exemptions must be strictly construed. Exemptions are never presumed. The burden is on a claimant to establish clearly a right to exemption. An alleged grant of exemption will be strictly construed. It must be in terms so specific and certain as to leave no room for doubt. (*Salisbury v. Lane*, 7 Idaho 370, 63 Pac. 383; *Kootenai County v. Seven-Seven Company*, 32 Idaho 301, 182 Pac. 529; *Cooley*, Taxation 4th Ed. P. 1404). An exemption claim cannot be sustained unless it is shown to be within the spirit as well as the letter of the law.' *Bistline v. Bassett*, 47 Idaho 66, 71, 272 Pac. 696 (1932).

"We do not believe the Legislature intended to exempt all property of a charitable corporation or society but only the property of a corporation organized primarily for charitable purposes and used exclusively for those purposes. Thus, a corporation may be organized to own and operate a hospital for charitable purposes. The land and the building used exclusively for those purposes may be exempt, but a farm owned by that corporation would not be. Nor would a business building granted or conveyed to such corporation, with the rentals therefrom inuring to the charitable corporation to be used and expended in furtherance of its purposes, be exempt. We must conclude that the property of the protestants does not come within the intent of the legislative grant of exemption.

"IT IS THEREFORE ORDERED, that the order of the County Board of Equalization of Teton County, denying the protestants' claim of exemption, be, and the same is hereby, affirmed.

"Done at Boise, Idaho, this 12th day of November, 1952.

"STATE TAX COMMISSION  
OF THE STATE OF IDAHO."

LIBERTY, 1953





REVIEW PICTURES

A. H. BICKNELL, 1878, ARTIST

## Lincoln's Speech at Gettysburg

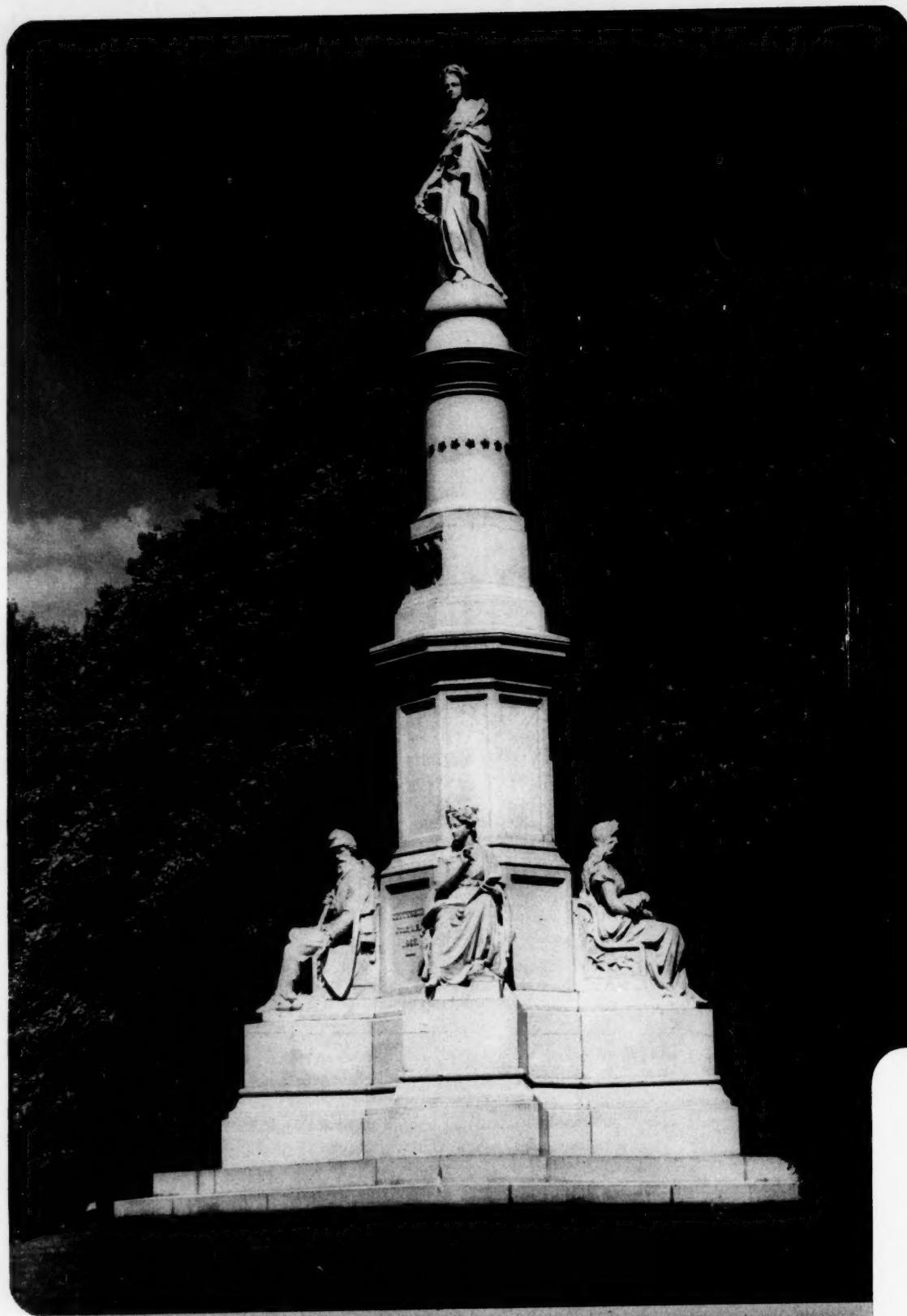
*November 19, 1863, Ninety Years Ago This Quarter*

**SITUATED** between two low ridges in southern Pennsylvania just a few miles from the Maryland State line is the city of Gettysburg. Here was fought one of the great and decisive battles of the Civil War in July, 1863. Very soon after the engagement the Government determined to acquire and set apart the battlefield for a national soldiers' cemetery.

On November 19, 1863, just ninety years ago this quarter, this battleground, which contains the graves of nearly thirty-six hundred Union soldiers, was dedicated by President Lincoln. The solemn ceremonies called for an oration by the Honorable Edward Everett, of Massachusetts, which took about two hours to deliver. Lincoln's simple though carefully prepared speech followed. Its spirit of tolerance toward all, even though the war was still unresolved and feelings were running high, was typical of this great President. His short talk soon became a classic in the field of oratory, and on this ninetieth anniversary of its delivery we print again this remarkable address of our sixteenth President:

"Fourscore and seven years ago our fathers brought forth on this continent a new nation conceived in liberty and dedicated to the proposition that all men are created

equal. Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battlefield of that war. We have come to dedicate a portion of that field as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this. But, in a larger sense, we cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here have consecrated it far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here. It is for us, the living, rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion; that we here highly resolve that these dead shall not have died in vain, that this nation under God shall have a new birth of freedom, and that government of the people, by the people, for the people, shall not perish from the earth."



EWING CALLOWAY

This imposing national monument at Gettysburg, Pennsylvania, marks the spot where Abraham Lincoln stood to be delivered.

